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No. 563

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1964

W. L. D. WINSHIP ET AL.,
Appellants,

vs.

CITY OF CORPUS CHRISTI, TEXAS,
Appellee.

ON APPEAL FROM THE COURT OF CIVIL APPEALS FOR THE THIRTEENTH SUPREME JUDICIAL DISTRICT OF TEXAS, SITTING AT CORPUS CHRISTI, TEXAS.

JURISDICTIONAL STATEMENT

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JURISDICTIONAL STATEMENT

OPINION BELOW

The opinion of the Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas is reported in 373 S.W.2d 844. A copy of that opinion is in the appendix to this statement pages A1 to A8.

JURISDICTION

This is an appeal from the judgment and opinion of said Court of Civil Appeals saying:

> "We, therefore, hold as follows: The City of Corpus Christi correctly and properly made the annexations in question under the provisions of its charter and was not required to comply with the provisions of Article 1182a, V.A.T.S. The City was not required to limit the voting in the annexation elections to the legally qualified property taxpaying voters as defined in § 3 and § 3a, Article VI, Texas Constitution. The City was not required to assume the indebtedness or properties of the districts involved, since only portions thereof were annexed. The questions involved were not required to be submitted both to the voters in the City and in the territory to be annexed. *The instant annexations do not amount to a taking of appellants' property without due process of law and are not in violation of either the Constitution of Texas or the Constitution of the United States of America.*
>
> "The judgment of the district court is affirmed." (App. p. A8) (Emphasis added.)

The judgment of the Court of Civil Appeals was entered on December 19, 1963. (App. p. A8) The appellants' motion for rehearing in the Court of Civil Appeals was overruled by that Court on January 9, 1964. (App. p. A73) Appellants' application for writ of error to the Supreme Court of Texas was filed in the Court of Civil Appeals in due time and was filed in the said Supreme Court of Texas on February 17, 1964. (A copy of said application is with the record.) The Supreme Court of Texas, on April 22, 1964, refused said application for writ of error N.R.E., and the appellants' motion for rehearing in that Court was overruled by the Court on May 20, 1964. (Copy of said

orders accompany this record.) (App. pp. A74, A75). (A copy of said motion for rehearing accompanies this record.) The appellants filed their notice of appeal to the Supreme Court of the United States with the Clerk of the Court of Civil Appeals on August 12, 1964. (App. p. A76) The Clerk of the Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas made her "Certificate of Transcript" which accompanies this record.

W. L. D. Winship and five other property owners and tax payers filed this suit seeking to have four ordinances passed by the City Council of the City of Corpus Christi, Texas, annexing certain territory to the City, declared null and void. The ordinances in question are Ordinance No. 6206 (Tr. pp. 23-34) (App. p. A15) passed July 12, 1961; Ordinance No. 6586 (Tr. pp. 35-47) (App. p. A32) passed August 1, 1962; Ordinance No. 6242 (Tr. pp. 66-71) (App. p. A24) passed August 5, 1961 and Ordinance No. 6636 (Tr. pp. 72-84) (App. p. A50) passed on September 19, 1962.

The territories sought to be annexed each contains a part of one or two municipal corporations with taxing powers, which are Nueces County Water Control and Improvement District No. 2, and Nueces County Fresh Water Supply District No. 1. The appellants allege in their original petition that the first named district, which we will call "Improvement District", has an outstanding indebtedness of over $500,000.00 evidenced by bonds, and that both districts own property that must be acquired by the City, if annexed, for use in the City Water System and that to acquire the property and assume the debts there is only one law authorizing the City of Corpus Christi to annex said area and that law is *Article 1182a, Vernon's Annotated Civil Statutes of Texas* (App. p. A9); that said City of

Corpus Christi ignored said law and made the annexation without authority of any law; that the conduct and actions of the said City were, and are, in violation of the Constitution of the United States. (Tr. pp. 2-8)

Santos de la Paz and 26 others, inhabitants of the City of Corpus Christi, Texas, and property owner tax payers, intervened in the suit and adopted the pleading of the plaintiffs and also alleged in substance and fact that such annexations burdened them and their property with added taxation to meet the obligations of said districts or purchase and acquire the districts' properties, and, that such annexations would thereby constitute a taxing of their property, within the original City, without due process of law. (Tr. pp. 51-54)

The "Improvement District" intervened in the suit because the City claimed it is a necessary party to the suit. That intervenor adopted the pleading of the plaintiffs and sued for itself and the inhabitants thereof seeking to have said annexations annulled. It alleges its indebtedness and future plans for the inhabitants thereof; that the attempted annexations of a part of the said district without complying with Article 1182a, on the part of the City of Corpus Christi, is void, and if permitted to stand will allow the City to exercise municipal authority over its territory in violation of its privileges and duties. (Tr. pp. 55-59) In adopting the pleading of the plaintiffs that "Improvement District" alleged that the annexations are a taking of its property without due process of law in violation of the Constitution of the United States. (Tr. p. 5, Par. 8)

Nueces County Fresh Water Supply District No. 1 was made a party on the insistence of the defendant City and answered setting out that a substantial part, but not all, of the territory within its boundaries is included within the

alleged annexation of 1962, Ordinance Nos. 6586 (App. p. A32), 6635 and 6636 (App. p. A50); that a vast majority of its inhabitants oppose the annexation and would have voted against annexation had they been permitted to vote on the issue. That Water District adopted the pleading of the plaintiffs and by doing so alleged that its property is being taken without due process of law as did the other district. (Tr. pp. 95-96)

The appellee, City of Corpus Christi, Texas, filed a motion for summary judgment based on the grounds that Article 1182a does not apply to the appellee and claiming that said Article 1182a had been repealed. (Tr. pp. 10-11) The plaintiffs and intervenors answered said motion and presented their motion for summary judgment. (Tr. pp. 87-94) In addition to substantially repeating the original pleadings, which were made a part of their motion, the plaintiffs and intervenors, including Nueces County Fresh Water Supply District No. 1, allege:

> "Neither the Charter of Corpus Christi, nor the law, permits the City Council of Corpus Christi, or the voters within the City, to annex territory containing all or any part of a Water District of the type covered by Article 1182a without the consent of the legally qualified property taxpaying voters having been given by a majority of such voters both within the limits of the City and within the territory to be annexed, therefore, in attempting to annex the territory in 1961 and in 1962 the City of Corpus Christi exceeded its authority making the attempted annexation void.
>
> "5.
>
> "The City of Corpus Christi had no authority by the law or Charter provision to annex the territory attempted to be annexed in 1961 and in 1962 by ordinance, with or without the consent of the inhabitants of the area." (Tr. p. 88)

The trial court denied the appellants relief and sustained the Motion for Summary Judgment of the City. The appeal was to the Court of Civil Appeals for the Fourth Supreme Judicial District of Texas, and, on the creation of the Thirteenth Court by the Texas Legislature the Supreme Court transferred the case to the Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas, at Corpus Christi, Texas, the Court of Last Resort in this case where the record was filed and the case tried. Copies of the orders transferring the case appear in this record. (App. pp. A69-A72)

THE JURISDICTION OF THIS COURT RESTS ON TITLE 28, SECTION 1257 (2), U.S.C.A.

THE NATURE OF THE PROCEEDINGS

The nature of the proceedings has been stated in the foregoing pages hereof and will not be repeated. In 1961 the annexation involved some 15,000 acres of land and in 1962 that area plus some 25,000 acres more.

Appellants' authorities and arguments in support of this Court's jurisdiction appear on pages 11 to 26 following.

CASES BELIEVED TO SUSTAIN JURISDICTION

1. *Chicago B. & Q. R. Co.* v. *City of Chicago,* 166 U.S. 226, 17 S. Ct. 581.
2. *Cooper* v. *New York,* 346 U.S. 842, 74 S. Ct. 13.
3. *Cuyahoga River Company* v. *Akron,* 240 U.S. 462, 36 S. Ct. 402.
4. *Golden* v. *Postal Telegraph,* 52 F. Supp. 763.
5. *Howard* v. *Ladner,* 116 F. Supp. 783.

6. *Mosher* v. *City of Phoenix*, 287 U.S. 29, 53 S. Ct. 67.
7. *Porter Royalty Pool* v. *C. I. R.*, 165 F.2d 933, cert. denied 68 S. Ct. 1347, 334 U.S. 833.
8. *Standard Oil Co. of California* v. *Johnson*, 316 U.S. 481, 62 S. Ct. 287.
9. *San Francisco Shopping News Co.* v. *City of South San Francisco*, 69 F.2d 879, cert. denied 55 S. Ct. 122, 293 U.S. 606.
10. *Stein* v. *People of State of N. Y.*, 73 S. Ct. 1077, 346 U.S. 156.
11. *Yick Wo* v. *Hopkins*, 118 U.S. 356, 6 S. Ct. 1064.
12. *Walker* v. *City of Gladewater*, 139 S.W. 283 (Tex. Civ. App.).

CITY CHARTER PROVISIONS AND ORDINANCES INVOLVED

Article I, Section 2, Charter for Corpus Christi, Texas, appendix pages A13 to A14.

Ordinance Numbered 6206 passed July 12, 1961, appendix pages A15 to A24.

Ordinance Numbered 6242 passed August 5, 1961, appendix pages A24 to A31.

Ordinance Numbered 6586 passed August 1, 1962, appendix pages A32 to A50.

Ordinance Numbered 6636 passed September 19, 1962, appendix pages A50 to A69.

QUESTIONS PRESENTED

1. The Constitution and laws of Texas provide the only method of annexation of territory to the City of Corpus Christi, Texas, when a portion of a Water Improvement District or a Water Supply District, having an outstanding indebtedness, or having property needed by the City, is

included within the territory to be annexed. When the attempted annexations of 1961 and 1962 were made there was included within the territory a portion of NUECES COUNTY WATER IMPROVEMENT DISTRICT No. 2, an appellant herein, on which there was, and is, an outstanding bonded indebtedness of more than FIVE HUNDRED THOUSAND AND NO/100 ($500,000.00) DOLLARS, and property necessary to be purchased by the City for water distribution, and in the annexation of 1962 there was included within the territory annexed a portion of NUECES COUNTY FRESH WATER SUPPLY DISTRICT No. 1, having property necessary for the City to acquire in order to properly operate water service therein; nevertheless, the City of Corpus Christi, Texas, appellee, failed and refused to follow the Constitution and Laws of Texas in such annexations and did thereby not afford these appellants, and all others similarly situated, the due process of law guaranteed to them by the Fourteenth Amendment to the Constitution of the United States, Section 1, and are therefore void.

2. In the annexations of territory in 1961 and 1962 the City Council of the City of Corpus Christi, Texas, annexed territory surrounding and completely enclosing other territory which had, and has, inhabitants, property owners, lands, business operations, and others, situated the same and having the same kind of property and businesses as those within the annexed area, but, said City did, in all annexation ordinances calling the elections and annexing the territory, exclude as not annexed such surrounded areas, and did by so doing, violate the Fourteenth Amendment to the Constitution of the United States, Section 1, and did not afford these appellants, and others similarly situated, equal protection of the laws and did discriminate in favor of said excluded persons and property.

STATEMENT

In answering the appellee's motion for summary judgment the appellants alleged that: Article 1182a of Vernon's Texas Civil Statutes (App. p. A9) was enacted in 1929 and was the law controlling the annexation of territory to the City of Corpus Christi in 1961 and 1962, when part of the territory to be annexed includes a Water Control & Improvement District or Fresh Water Supply District or any part of such districts. (Tr. p. 87) The pleadings in the case show, and there is no dispute about the fact, that Nueces County Water Control & Improvement District No. 2 is a municipal corporation having an outstanding indebtedness of more than $500,000.00 in 1961 and 1962 and that part of said district is included in the annexed area. (Tr. pp. 2-8, 55-64, 95 and 51-55) It is also shown by the same pleadings that Nueces County Fresh Water Supply District No. 1 is a municipal corporation that is operating as such and the owner of water systems that the City will need to acquire in operating the water system if annexed and that part of that water district is within the area annexed in 1962;

Neither the Charter of Corpus Christi, nor the laws of Texas, permit the City Council of Corpus Christi, or the voters within the City, to annex territory containing all or any part of a Water District of the type covered by Article 1182a without the consent of the legally qualified property taxpaying voters having been given by a majority of such voters both within the limits of the City and within the territory to be annexed, therefore, in annexing the territory in 1961 and in 1962 the City of Corpus Christi exceeded its authority making such annexations void (Tr. p. 88);

Article 1182a provides that "if a majority of the legally qualified property tax paying voters residing within the

territorial limits of said City or if a majority of the legally qualified property tax paying voters residing within the territory desired to be annexed shall not be in favor of such annexation then such annexation shall not be made." and, the majority of such qualified voters were not given an opportunity to consent or refuse to consent to the annexations on either year 1961 or 1962 resulting in the City of Corpus Christi not having jurisdiction over such territory for annexation in either year (Tr. p. 88);

After alleging that the annexations were not submitted to the voters qualified as tax paying voters within the City and was not submitted to such qualified voters within the area sought to be annexed, on either annexation, and alleging that the City of Corpus Christi, Texas, is, on annexation of territory, controlled by Article 1182a, it is alleged:

> "Each attempt at annexation, herein described, are the attempt on the part of the City of Corpus Christi, to subject the territory involved to city taxes and regulations without complying with the law and amount to a taking of the property of the plaintiffs, and all others situated as are the plaintiffs, without due process of law in violation of the Constitution of the State of Texas and in violation of the Constitution of the United States and are void." (Tr. p. 5)

It is clear that the City of Corpus Christi had no authority by law or Charter provision to annex the territory attempted to be annexed in 1961 and in 1962 by ordinance, with or without the consent of the inhabitants of the area or city. (Article I, Section 2, Charter for Corpus Christi, App. pp. A13 to A14)

The points presented were presented to the Court of Civil Appeals by the appellants' brief, pages 5, 15. The Court of Civil Appeals considered and by express holding declared the ordinances valid and not violative of the 14th

Amendment to the Constitution of the United States. (App. pp. A1 to A8) The constitutional question was presented to the Court of Civil Appeals in appellants' motion for rehearing in that court, points 7, 8, 16, 18, 23, 24 and 31. A copy of the said brief in the Court of Civil Appeals and of the motion for rehearing in that court accompany this record.

The constitutional question was presented to the Supreme Court of Texas in the application for writ of error, First Point, page 2; Second Point, pages 2-3; Sixth Point, pages 3-4, 5-16. In the motion for rehearing on the application for writ of error to the Supreme Court of Texas, the constitutional question was again submitted to that court in pages 2 and 3. There are copies of the application for writ of error, motion for rehearing and orders thereon in the Supreme Court of Texas accompanying this record.

AUTHORITIES AND ARGUMENT

Article I, Section 2, Charter for the City of Corpus Christi (App. pp. A13-A14), is the only provision in said City Charter providing for the annexation of territory. There is no provision in the said City Charter for annexing territory of a sister municipal corporation, such as the two Water Districts herein involved. That statement is especially true as to municipal corporations having outstanding bonded indebtedness or property necessary to acquire, by the City, for city uses. The Court of Civil Appeals, in its opinion, says:

> "The instant annexations do not amount to a taking of appellants' properties without due process of law and are not in violation of either the Constitution of Texas or the Constitution of the United States."

That statement brings this case squarely within the holding, as to jurisdiction of the Supreme Court of the United States,

of *Standard Oil Co. of California* v. *Johnson*, 316 U.S. 481, 62 S. Ct. 1168, 1169, saying:

> "Since validity of the State statute as construed was drawn in question on the ground of its being repugnant to the Constitution, we think the case is properly here on appeal under Section 237(a) of the Judicial Code, 28 U.S.C.A., § 344(a)." (Now 28 U.S.C.A., 1257(2))

This is a case where are drawn in question the validity of four ordinances of the City of Corpus Christi, Texas, on the ground of their being repugnant to the Constitution of the United States and the decision of the State Court of Last Resort is in favor of their validity. The said state court decision is itself repugnant to the Constitution, Section One of the 14th Amendment:

> "The requirement of due process of law extends to every case of the exercise of government power." *12 Am. Jur., p. 283, Para. 586.*

In *Mosher* v. *City of Phoenix*, (Two cases) 287 U.S. 29, 53 S. Ct. 67, 68, though an appeal from the Circuit Court of Appeals, is very much in point with this case, wherein the Court says:

> "In this respect the instant cases are similar to that of Cuyahoga River Power Company v. Akron, 240 U.S. 462, 36 S. Ct. 402, 403, 60 L. Ed. 743, where the plaintiff, after setting forth provisions of the statutes and Constitution of Ohio, and concluding that the city had no constitutional power to take the property and franchises of the plaintiff, and was exceeding the authority conferred by state law, further alleged that the city was attempting to take the plaintiff's property without compensation, and was going forward with the enterprise in question in violation of the contract clause and Fourteenth Amendment of the Constitution of the United States. *This court held that 'whether the plain-*

tiff has any rights that the city is bound to respect can be decided only by taking jurisdiction of the case.'" (Emphasis added)

In the instant case the plaintiffs and intervenors set forth provisions of the statutes of Texas on annexations of territory by a city, such as Corpus Christi, Article 1182a, where a portion of a water district was proposed for annexation and alleged that neither the Charter of Corpus Christi, nor the law, permits the City Council of Corpus Christi, or the voters within the City, to annex territory containing all or any part of a Water District of the type covered by Article 1182a without the consent of the legally qualified property taxpaying voters having been given by a majority of such voters both within the limits of the City and within the territory to be annexed, therefore, in attempting to annex the territory in 1961 and in 1962 the City of Corpus Christi exceeded its authority making the attempted annexations void. (Tr. p. 88) After setting out what the City Council had done and failed to do with reference to said annexations (Tr. pp. 2-5), the appellants allege that each attempt at annexation is an attempt on the part of the City to subject the territory involved to city taxes and regulations without complying with the law and amount to a taking of the property of the plaintiffs (and the Water Districts by their adopting of the plaintiffs' pleading), and all others so situated, without due process of law in violation of the Constitution of the United States and are void. (Tr. p. 5, Para. 8)

The actions by the City of Corpus Christi are by ordinances and it is well established that such actions are to be regarded as the actions of the state. *Cuyahoga River Power Company* v. *City of Akron*, 240 U.S. 462, 36 S. Ct. 402, 403, and cases there cited. Whether the Water Districts, as well as the plaintiffs and intervenors, are having their property

taken without due process of law, or just compensation, are involved herein.

> "• • • Whether the plaintiff has any rights that the city is bound to respect can be decided only by taking jurisdiction of the case; and the same is true of other questions raised." *Cuyahoga River Power Company* v. *City of Akron, supra.*

The Court of Civil Appeals having held that the annexation ordinances are valid, when in fact the record shows that they are charged to be in violation of the 14th Amendment to the Constitution of the United States, as not affording the appellants due process of law, the Supreme Court of the United States has, and should retain, jurisdiction of this case.

Ordinance No. 6202 passed on July 12, 1961, calling for an election for annexation to be held on August 5, 1961, appears on pages 23 to 34 of the transcript accompanying this record. (App. pp. A15-A24) The only proposition submitted to the voters within the then city limits, and to no others, reads:

> "PROPOSITION No. 1
>
> "Shall the City of Corpus Christi, by ordinance, annex to said City certain additional territory referred to and described in the ordinance ordering an election passed July 12, 1961, to the City of Corpus Christi and its corporate limits, said territory being generally described as an area extending eastward for a distance of 100 feet on each side of Lexington Boulevard from the present eastern city limits of the City of Corpus Christi to the eastern edge of Cayo Del Oso and including all of the area bounded on the South by the King Ranch property, on the West by the eastern edge of the Cayo Del Oso, on the North by the U. S. Naval Air Station property and on the East by the Laguna Madre." (Tr. p. 25)

There is no proposition submitted concerning the annexation of a portion of the Water District though a portion of Nueces County Water Improvement District No. 2 is included in the description of the area. Nothing submitted about the district indebtedness or property to be acquired by the City if annexed. The voters are not limited to property tax paying voters.

The Ordinance No. 6586 (App. pp. A32-A50) passed on final reading August 1, 1962, calling for an election for annexation to be held on September 15, 1962, appears on pages 35 to 47 of the transcript. This ordinance calls for a re-annexation of the area described in the previous annexation attempt. The only proposition submitted appears on page 43 of the transcript and, like the previously described proposition, is submitted to the general voter and not limited to property taxpaying voters and is not submitted to the voters of the area to be annexed, although the annexation takes in a portion of the two before named Water Districts, parties to this suit.

Nothing is submitted relative to annexation of parts of the Water Districts nor the assumption of the debts, if any, or the spending of money to acquire properties of the district necessarily needed by the City if the area is annexed. *Article 1182a* is not complied with and is ignored.

Ordinance No. 6242 (App. pp. A24-A31) appears on pages 66 to 71 of the transcript. That is the annexation ordinance passed on August 5, 1961, following the election of that day. The ordinance declares that:

> "• • • said territory shall hereinafter be a part of the City of Corpus Christi, Texas, and shall be subject to the general laws of the State of Texas, the City Charter of said City and the ordinances, resolutions and laws of the City of Corpus Christi, Texas, to all intents and purposes as the present City of Corpus Christi, and

subject to all the same rights, privileges and burdens thereof." (Tr. p. 69)

Ordinance No. 6636 (App. pp. A50-A69) appears on pages 72 to 84 of the transcript. That is the annexation ordinance passed on September 19, 1962, following the election of September 15, 1962. The wording of the annexing portion of the ordinance is practically the same as that next written above. (Tr. p. 82)

Ordinances Numbered 6586 and 6636, each, describe two tracts of land. *Tract Number One* is described in Ordinance No. 6586 pages 36 to 41 in the transcript. *Tract Number Two* is described on page 42 of the transcript. On page 42 of the transcript, and as a part of said descriptions, the ordinance states:

> "Those areas which lie between Tract Number One and Tract Number Two and which are not included within the boundary of either of said tracts are specifically excluded and do not lie within the proposed City Limits. Tracts Numbers One and Two are contiguous at those points where the descriptions indicate coincidence of boundaries."

By the descriptions given there is a tract of land some 11,000 acres between said Tract Number One and said Tract Number Two. Tract Number One is on the South and Southwest of the omitted lands and Tract Number Two is to the North and Northeast of the omitted area, however, the two tracts are joined at the West and are joined at the East thereby completing the enclosing of the so called excluded area within the new City Limits created by the so called annexation. The City Limits completely surround the excluded area with one tract on the South-Southwest and one tract on the North-Northeast and the two joining at the East end and at the West end of the so called excluded areas. This is shown by the description calls.

By such ordinance the taxpaying inhabitants of the Tracts One and Two are subject to City taxation and regulations while those of the so called excluded area, though actually within the City Limits, are not subject to taxation and regulation by the City of Corpus Christi.

Ordinance No. 6636 contains the same descriptions of the same two tracts or territory and contains the same paragraph excluding the some 11,000 acres of land that is actually within the City Limits. (App. pp. A50-A69) Ordinance 6636 is the annexing ordinance of September 19, 1962. The exclusions of area within the City Limits is discrimination that does injustice in that the City thereby does not afford the inhabitants of the original City or those in the two described tracts the equal protection of the laws in violation of Section One of the 14th Amendment to the Constitution of the United States.

In *J. R. Frieberg* Co. v. *Dawson*, 274 Fed. 420, affirmed 255 U.S. 288, 41 S. Ct. 272, a three judge court held that if a tax law is invalid, it follows that to enforce collection of the tax is to take a person's property without due process of law. By the annexation the Charter of Corpus Christi (App. pp. A12-A15) imposed all city taxes and regulations upon the newly annexed area and if the annexation is invalid such tax imposition is, and will always be, invalid for it will allow the taking of the taxpayer's property without due process of law.

The two water districts are municipal corporations. The stockholders of those corporations are the qualified voters who own taxable property within the district. The districts are operated by the board elected by the qualified voters who pay taxes to the districts. Those stockholders (voters) have the inherent right to say what shall be done with their municipal corporation. To forbid them that right

is to take from them of a fundamental right and privilege afforded to free peoples. To uphold the judgment of the Court of Civil Appeals in this case is to give to the City Council of Corpus Christi purely personal and arbitrary power, or if the annexation of a sister municipal corporation is authorized by a vote of the common voter who resides within the city annexing and without the stockholders (voters) of the annexed area being permitted to vote on the issue of annexation and added taxes, is sustained, then those city voters, even though non-taxpayers, are given purely personal and arbitrary power over the sister municipality. On the subject we submit the following quotation from *Yick Wo* v. *Hopkins*, 118 U.S. 356, 6 S. Ct. 1064, 1071:

> "When we consider the nature and theory of our institutions of government, the principles upon which they are supposed to rest, and review the history of their development, we are constrained to conclude that they do not mean to leave room for the play and action of purely personal and arbitrary power. Sovereignty itself is, of course, not subject to law, for it is the author and source of law; but in our system, while sovereign powers are delegated to the agency of government, sovereignty itself remains with the people, by whom and for whom all government exists and acts. And the law is the definition and limitation of power. It is, indeed, quite true that there must always be lodged somewhere, and in some person or body, the authority of final decision; and in many cases of mere administration, the responsibility is purely political, no appeal lying except to the ultimate tribunal of the public judgment, exercised either in the pressure of opinion, or by means of the suffrage. But the fundamental rights of life, liberty, and the pursuit of happiness, considered as individual possessions, are secured by those maxims of constitutional law which are the monuments showing the victorious progress of the race in securing to men the blessings of civilization under the reign of just and equal laws, so that, in the famous

language of the Massachusetts bill of rights, the government of the commonwealth 'may be a government of laws and not of men.' For *the very idea that one may be compelled to hold his life, or the means of living, or any material right essential to the enjoyment of life, at the mere will of another, seems to be intolerable in any country where freedom prevails, as being the essence of slavery itself.*

"There are many illustrations that might be given of this truth, which would make manifest that it was self-evident in the light of our system of jurisprudence. The case of the political franchise of voting is one. Though not regarded strictly as a natural right, but as a privilege merely conceded by society, according to its will, under certain conditions, nevertheless it is regarded as a fundamental political right, because preservation of all rights." (Emphasis added)

The very idea that the peoples of the water districts, or annexed areas, may be compelled, against their wills, by the voters within the City of Corpus Christi and the City Council thereof, to hold their lives, or means of living, or any material right essential to the enjoyment of their lives, at the mere will of others, within another municipal corporation, or at the mere will of the City Council of such other corporation, is intolerable in this a supposed free country. Contrary to the State Laws the Constitution of the State of Texas, and the Constitution of the United States, a sister municipality, wherein the annexed peoples cannot exercise their suffrage or pressure of opinion, may impose its will upon the peoples of other corporations without those peoples even being allowed to be heard at the voting polls, a fundamental right, is in violation of *Section 1, of the 14th Amendment to the Constitution of the United States.* The fundamental right to vote on annexation is afforded to the qualified tax paying voters within the water districts by Article 1182a and that right

cannot be denied such inhabitants of the annexed areas by the City of Corpus Christi without violating the 14th Amendment to the Constitution of the United States.

A careful examination of the description of the territory annexed in 1961 and 1962 shows clearly that the ordinances, questioned as unconstitutional, carefully excludes territory from annexation although such excluded areas are actually enclosed within the boundaries of the annexation and new city limits after annexation. Those exclusions exempt the areas from city taxes and regulations. The ordinances state no reasons for the excluding of such areas. It is obvious that the acts of excluding the areas are arbitrary. By such exclusions the lands, businesses and inhabitants therein are relieved from the burdens that are placed upon the annexed territory not excluded and also the burdens that are naturally imposed upon those within the city limits as existing before annexation. It is apparent that the excluded areas enjoy all the privileges of those within the city but are exempted from equal taxes and regulations. A business establishment within the excluded area has many advantages over his competitor in the included area though they may be across the street from one another.

In *Cotting* v. *Godard, Attorney General*, 183 U.S. 79, 22 S. Ct. 30, page 42, it is said:

> " 'Equal protection of the laws means equal exemption with others of the same class from all charges and burdens of every kind!' . . ."

The annexations of necessity required the expenditure of money. The Water Improvement District owed money and the prorata part of that debt, of necessity, must be assumed by the city in proportion to the portion of the district area annexed. Part of the district properties would

have to be acquired or new facilities installed, which required the expenditure of money. There is not one word in the annexation portion of the City of Corpus Christi Charter (Article I, Section 2, App. pp. A13 to A14) about how the said City shall annex a water district or any part thereof.

There is no provision in the Charter for Corpus Christi giving the City power to annex any territory that contains a water district or any part of such a district, especially when that district is indebted. The only law giving that power is Article 1182a, Vernon's Annotated Civil Statutes. In any event, the words "qualified voters of the City" as contained in Article I, Section 2 (a), Charter for Corpus Christi, when territory to be annexed contained a portion or all of a water district that is indebted must be voters qualified as described in *Article VII, Section 10, Charter for Corpus Christi*, saying:

> "In all elections to determine the expenditure of money or the assumption of debt, only those shall be qualified to vote who pay taxes on property in the City. . . ."

In each of the attempted annexations the voting was not limited as required by the Charter as quoted. One water district owed a bonded indebtedness of over $500,000.00, and the other had properties to be purchased if annexed. Article 1182a was not complied with in any respect.

The Supreme Court of the United States in *Chicago, B. & Q. R. Co.* v. *City of Chicago*, 166 U.S. 226, 17 S. Ct. 581 at 586, says that due process of law requires —First, *a legislative act authorizing the city to do what it attempted to do, pointing out how it may be done;* and, second, *the parties or officers proceeding to do the act attempted shall keep within the authority conferred, and*

observe every regulation which the law makes for the protection or in the interest of the property owners. There being, first, no Charter provision for annexation of the area involved the first requirement of due process of law did not exist by Charter in this case, and, second, if there was any authority in law for the annexations the law was not complied with in the least.

In *State ex rel. Walker et al.* v. *City of Gladewater*, 139 S.W.2d 283, 286 (reversed on other grounds 157 S.W.2d 641), the court says:

> "And as stated in State v. Masterson, supra (228 S.W. 631), 'to permit the incorporation (of relators' lands) in this case to stand, as was attempted, would be for us to sanction that which is clearly a legal fraud.' Such attempted act was arbitrary, unreasonable and violative of the inhibitions of both State and Federal Constitutions, Const. Tex. Art. 1, § 19; U.S. C. A. Const. Amend. 14, that 'a person shall not be deprived of his * * * property without due process of law.'"

It is the settled law that annexations must be made in due process of law.

In *Howard* v. *Ladner*, 116 F. Supp. 783, a three judge court expressed the law applicable to the case at bar, thus:

> "The United States Courts are the peculiar guardians of the Constitution of the United States. The decisions of even the highest state courts are not binding upon federal courts concerning questions arising under the Constitution of the United States. If we were concerned simply with an application of the doctrine of stare decisis, it would be clear that we are not bound by the opinion of the Supreme Court of Mississippi. When all that is involved is the decision of a pure question of law, it seems doubtful whether a different result should follow because we

call the doctrine res judicata rather than stare decisis." (116 F. Supp. 792-793)

The Federal Court, in determining the validity of the City Charter of Corpus Christi or ordinances of the said City on federal grounds, is not bound by decisions of the State Supreme Court, or other state Courts, although state court decisions interpreting the meaning of particular charter provision or ordinance are controlling. *San Francisco Shopping News Co.* v. *City of South San Francisco*, 69 F.2d 879, cert. denied 55 S. Ct. 122, 293 U.S. 606, 79 L. Ed. 697.

Where, as here, Constitutional rights are involved, it is the duty of the federal courts to secure their protection even though state courts may have failed to do so in analogous situation. *Goldman* v. *Postal Telegraph*, 52 F. Supp. 763, D.C. Del. 1944. While an opinion of a state Supreme Court may be regarded as persuasive by Circuit Court of Appeals, it is not controlling on a federal question which must be determined by federal law as interpreted by the United States Supreme Court. *Porter Royalty Pool* v. *C. I. R.*, 165 F.2d 933, cert. denied 68 S. Ct. 1347, 334 U.S. 833. In this or any other case the federal courts cannot allow themselves to be completely bound by state court determination of any issue essential to the decision of the appellants' claims of federal rights, in view of the fact that federal law could then be frustrated by distorted fact findings in the state courts, as is the case in the cause at bar here, but the federal courts may give weight to state court determination. *Stein* v. *People of State of N. Y.*, 73 S. Ct. 1077, 346 U.S. 156, 97 L. Ed. 1522; *Cooper* v. *N. Y.*, 346 U.S. 842, 74 S. Ct. 13, 98 L. Ed. 362.

There is a fair, reasonable, substantial doubt concerning the existence of the power to annex the territories

involved in 1961 and 1962 by the method used by the City of Corpus Christi at the time. There is a fair, reasonable, substantial doubt that the ordinances of annexation are valid under the provisions of the Constitution of Texas, as cited, and the 14th Amendment to the Constitution of the United States. There is no doubt that Article 1182a must be followed by the City of Corpus Christi in the annexation of the territory involved in both annexations. There is no doubt that the voters entitled to vote on the annexations of the territory involved each year must be legally qualified property taxpaying voters residing within the City whether Article 1182a applies or not. The Charter of Corpus Christi and the Constitution of Texas, Article VI, Sections 3 and 3a so require. There are other matters in the case on which there is a fair, reasonable, substantial doubt concerning the power of the City. These said reasonable doubts must be resolved against the power of the City, by Charter provision, to annex the territory in 1961 and 1962.

In *Foster et al.* v. *City of Waco et al.*, 113 Tex. 352, 255 S.W. 1104, 1105-1106, the Court says:

> ". . . Another rule equally well recognized, applies to and controls this case, to-wit, that where a power is granted, and the method of its exercise prescribed, the prescribed method excludes all others, and must be followed. . . .
>
> "It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers, and no others: First, those granted in express words; second, those necessarily or fairly implied in or incident, to the powers expressly granted; third, those essential to the accomplishment of the declared objects and purposes of the corporation—not simply convenient, but indispensable. *Any fair, reasonable, substantial doubt con-*

cerning the existence of power is resolved by the courts against the corporation, and the power is denied. Of every municipal corporation the charter or statute by which it is created is its organic act. *Neither the corporation nor its officers can do any act, or make any contract, or incur any liability, not authorized thereby, or by some legislative act applicable thereto.* All acts beyond the scope of the powers granted are void." (Authorities are cited) (Emphasis added)

There is no charter provision authorizing Corpus Christi to annex territory which includes all or any part of a water district that has indebtedness outstanding and assets that must be purchased, or either.

In *Willman* v. *City of Corsicana*, 213 S.W.2d 155, the Court says:

". . . It has been held that where the power of a municipal corporation is in question, the grant of power will be strictly construed, and that *such power should not be enlarged by a liberal construction and if any fair, substantial and reasonable doubt exists as to any power, it is to be resolved against the corporation and the power denied.* (Authorities are cited) (Emphasis added) . . . (Affirmed by the Supreme Court 147 Tex. 377, 216 S.W.2d 175)"

If Article 1182a did not exist the City of Corpus Christi could not annex any territory, by any means, that contained a part of one or both of the Water Districts involved. There is no mention of annexation of a part of such Water Districts in the annexation portion of the City Charter, Article I, Section 2. (App. pp. A13 to A14) Such authority cannot be implied or assumed.

The actions of the City of Corpus Christi, its Council and the city voters, amount to a taking of a part of the assets of two Water Districts, necessary for serving water

to the area, without paying said two Districts for the value thereof. The Water Districts remain active in the non-annexed areas thereof and should not have their facilities and assets taken without compensation to each district. The annexation makes no provision for compensating either district for any assets taken nor provision for taking on the prorata part of the debts, and other obligations, of the Districts. Surely such taking and action is in violation of the 14th Amendment to the Constitution of the United States and these appellants should have relief from such unlawful taking and actions.

CONCLUSION

From all of the foregoing, and the exhibits attached in the appendix, it is respectfully submitted that it affirmatively appears that this Court has jurisdiction of this case; that there is drawn in question the validity of four Ordinances of the City of Corpus Christi, Texas, which are, in law, statutes of the State of Texas, on the ground of their being repugnant to the FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES, SECTION 1, and that the decision of the Court of Last Resort of Texas is in favor of the validity of said Ordinances; that the Trial Court, the Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas, and the Supreme Court of Texas, have denied the existence of Appellants' Federal right and deprived Appellants of the benefits of it; that this Court has jurisdiction to review the final judgment entered by the Texas Court depriving Appellants of that Federal right. Only by review now in this Court and the reversal of the judgment of the Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas, sitting at Corpus Christi, Texas, can the Appellants' right be effectively recognized and protected.

The Appellants pray that this Court retain jurisdiction of this suit and set the case for submission on briefs and oral argument.

Respectfully submitted,

SIDNEY P. CHANDLER,
P. O. Box 6216,
Corpus Christi, Texas 78411,
Attorney for Appellants.

Of Counsel:

For Nueces County Fresh Water Supply
District No. 1:

BOONE, DAVIS, COX & HALE,
ALLEN DAVIS, ESQ.,
Wilson Tower,
Corpus Christi, Texas.

PROOF OF SERVICE

I, Sidney P. Chandler, the attorney of record for W. L. D. Winship, et al, Appellants herein, and a member of the Bar of the Supreme Court of the United States, hereby certify that on the ..... day of ....., 1964, I served copies of the foregoing Jurisdictional Statement of Appellants on the Appellee, City of Corpus Christi, Texas, by depositing the same in the United States Postoffice in Corpus Christi, Texas, duly addressed to Honorable I. M. Singer, City Attorney, City Hall, Corpus Christi, Texas, one of the attorneys of record for the Appellee, with first class mail postage paid.

SIDNEY P. CHANDLER,
P. O. Box 6216,
Corpus Christi, Texas 78411.

IN THE COURT OF CIVIL APPEALS FOR THE THIRTEENTH SUPREME JUDICIAL DISTRICT SITTING AT CORPUS CHRISTI, TEXAS

W. L. D. WINSHIP, ET AL., Appellants, vs. CITY OF CORPUS CHRISTI, Appellee.	Number 15 On Appeal from Nueces County

This is an appeal from a summary judgment rendered in favor of the City of Corpus Christi, Texas, appellee, and from the order of the trial court refusing to grant the motion for summary judgment filed by some of appellants.

The suit involves two annexations of territory by the City of Corpus Christi in the years 1961 and 1962. It was instituted against the City by a group claiming to be property owners and taxpayers within the territory sought to be annexed. Another group intervened, claiming to be taxpayers and property owners within the former city limits. Nueces County Water Control & Improvement District No. 2 also intervened and thereafter plaintiffs amended, naming Nueces County Fresh Water Supply District No. 1 as an additional defendant. All of the said parties, except the City of Corpus Christi, appear herein as appellants, contending that the said annexations are invalid and that the trial judge should not have sustained the motion for summary judgment of the City upholding the same.

It appears from the record, and all parties agree, that there is no genuine issue as to any material fact and

only questions of law concerning the validity of such annexations are presented on this appeal.

The record shows that the annexations of August, 1961, and September, 1962, included a portion, but not all, of Nueces County Water Control & Improvement District No. 2, and the annexation of September, 1962, included a portion, but not all, of Nueces County Fresh Water Supply District No. 1. The annexations were approved by the qualified voters of the City at seperate elections held in 1961 and 1962, and ordinances were passed incorporating the new territory into the City of Corpus Christi.[1] Voting in such elections was not limited to the legally qualified property tax paying voters and there was no election held for the voters in the territory sought to be annexed. In neither of such elections was there submitted any proposition relating to the assumption of debt, expenditure of money, or issuance of bonds or lending of credit.

Appellants urge seven points of error in connection with the action of the trial court in granting summary judgment in favor of the City and in refusing their similar motion. Appellee urges six counter-points for upholding the action of the lower court.

Appellants' points are so general that in order to determine the contentions made it has been necessary for us to refer to the statement and argument in connection

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1. Ordinance No. 6206, passed on July 12, 1961, by the City Council of Corpus Christi, called an election to be held within the limits of said City on August 5, 1961. Ordinance No. 6242, passed on August 5, 1961, annexed the territory described therein to the City. Ordinance No. 6586, passed on August 1, 1962, called an election to be held within the limits of said City on September 15, 1962. Ordinance No. 6636, passed on September 19, 1962, annexed the territory described therein to the City of Corpus Christi, including that described in Ordinances Numbers 6206 and 6242.

therewith. Fambrough v. Wagley, 140 Tex. 577, 169 S.W.2d 478 (1943); Saldana v. Garcia, 155 Tex. 242, 285 S.W.2d 197 (1956). From such examination it appears that appellants' primary contention is that Article 1182a, V.A.T.S., prescribed the method to be followed by the City in annexing territory, and since the City did not follow such method that the annexations are void.[2]

Appellants also contend that even if Article 1182a does not apply to the instant annexations, the voters participating in the elections must be qualified under Article VI, §3 and §3a, Texas Constitution, that is, be legally qualified property taxpaying voters, where districts with bonded indebtedness are to be annexed; that Articles 1182a, 1182c-1, V.A.T.S., and equity require the City to assume its pro-rata part of the bonded indebtedness of the districts annexed; that the City Charter does not authorize annexation of parts of water districts by ordinance or without the consent of the voters in the area to be annexed; and that the instant annexations amount to a taking of the property of appellants without due process of law in violation of the Constitutions of the State of Texas and of the United States, and are void.

We have concluded that all of appellants' contentions are without merit and should be overruled.

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2. Article 1182a provides, among other things, that where the City Commission of a home rule City initiates an order for an election under the terms thereof, the same shall include both the questions of annexation and assumption of bonded indebtedness and flat rates owing to a Water Control and Improvement District which is involved; and that such questions shall be voted on by the legally qualified property taxpaying voters within the city and those of the same class in the territory to be annexed, and that the annexations must carry by majority vote in each of said territories.

The City of Corpus Christi, Texas, is a home rule city operating under the provisions of Article XI, §5, Constitution of the State of Texas, commonly known as the Home Rule Amendment. A city of such class may exercise all of the legislative powers vested in it by the Constitution and laws of Texas and by the provisions of its charter, including the annexation of additional territory adjacent to it. Goldston v. City of Tyler, 262 S.W.2d 518 (Tex. Civ. App., 1953, writ refused).

It is undisputed that the City did not attempt to effect the said annexations under Article 1182a, but that the same were conducted under provisions of the City Charter. The material portions of such charter provisions are set out below.[3]

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3. "Section 2. ANNEXATION." The City of Corpus Christi is empowered to annex additional territory adjoining or lying adjacent to the City in the manner set forth in either of the following subsections (a), (b), or (c).

(a) The question of annexation of a given territory may be submitted to the qualified voters of the City at an election duly called for such purpose; and if a majority of such qualified voters voting at such election favor the annexation of such territory, the same shall be annexed by ordinance of the City Council; and when any additional territory has been so annexed, the same shall be a part of the City of Corpus Christi and the property therein shall bear its pro rata part of the taxes levied by the City, and the inhabitants thereof shall be entitled to the rights and privileges of all the citizens, and shall be bound by the acts, ordinances, resolutions and regulations of the City. Such question of annexation of any given territory may be submitted to the qualified voters of the City at any time upon the majority vote of the members of the Council. The question of annexation of any given territory may come before the Council for consideration upon either (1) the will of the Council, or (2) the written recommendations of the Zoning and Planning Commission of the City, or (3) petition signed by not less than 1,500 qualified voters of the City, or (4) petition signed by not less than 10% of the qualified voters residing in the territory proposed to be annexed." (Sub-sections (b) and (c) are not material to this case).

We hold that the City of Corpus Christi was not required to comply with the provisions of Article 1182a and was authorized to follow the provisions of its charter in connection with the annexations here involved. Article 1182a is not exclusive in its operation, but, on the other hand, is cumulative of established methods of annexing territory provided for by city charters. City of Pelly, et al. v. Harris County Water Control & Improvement District 7, et al., 145 Tex. 443, 198 S.W.2d 450 (1946); City of Fort Worth v. ex rel. Ridglea Village, 186 S.W.2d 323 (Tex. Civ. App., 1945, writ refused w.o.m.); Turner v. City of Beaumont, 197 S.W.2d 114 (Tex. Civ. App., 1946, writ refused n.r.e.); Allen v. City of Austin, 116 S.W.2d 468 (Tex. Civ. App., 1938, writ refused).

Article 1182c-1, V.A.T.S., enacted in 1957, contains provisions concerning annexation of less than all of the territory of water control and improvement districts and fresh water supply districts. Among other things, such statute provides that the governing authorities of the City and District in question may enter into contracts regarding division and allocation of duplicate and overlapping powers, functions and duties. Said statute further provides that in the absence of such contract, the district shall be authorized to continue the exercise of all its powers and functions which it had prior to annexation and the city shall not duplicate the services of the district within its boundaries without the district's consent. Article 1182c-1 clearly recognizes the right of the City to annex less than all of the water district or fresh water supply district without assumption of indebtedness or expenditure of money.

The validity of Article 1182c-1 has been upheld in the case of Forbes v. City of Houston, 304 S.W.2d 542 (Tex. Civ. App., 1957, writ refused n.r.e.); and it is

specifically held therein that said Article does not violate §3 and §3a of Article VI, Texas Constitution. The last mentioned sections merely prescribe the qualifications of voters where the matter of assuming or creating indebtedness is actually submitted to the people. In the present case, there was no requirement and it was not necessary to submit such questions in connection with annexation and they were not submitted.

Our Supreme Court has recently passed upon a case where a city annexed part of a water district without resolving questions of indebtedness or expenditure of money. Jefferson County Water Control and Improvements District No. 5 v. City of Port Arthur, et al., 160 Tex. 136, 327 S.W.2d 415 (1959). It there appeared that a tract of land situated within a water control and improvement district had been annexed to the city under provisions of the city charter. The owners and said tracts wanted to subdivide it and agreed with the city that it should furnish water and sewer lines and service to said subdivision. The water district opposed this agreement and the city and others filed suit for declaratory judgment seeking a determination that the city had a lawful right to contract with the land owners to furnish such services and that the district had no lawful right to interfere with the city in furnishing the same. The Supreme Court rejected the city's contention and held under Article 1182c-1 that since there had been no agreement between the City and the water district concerning the furnishing of such services that the city had no right to undertake the same and that the statute was enacted to prevent waste by prohibiting duplication of services.

It is apparent that under Article 1182c-1 and the cases herein discussed that since the instant annexations did not cover all the territory of the two districts involved,

there were no questions concerning assumption of indebtedness or expenditure of money or issuance of bonds or lending of credit which were required to be submitted to the voters at the elections held in 1961 and 1962. Such matters may be resolved at a later time and do not constitute impediments to annexations under the City Charter.

It should be pointed out that the present provisions of the charter of the City of Corpus Christi concerning annexation are not the same as those involved in the case of State, ex rel. Wilkinson v. Self, Mayor of Corpus Christi, 191 S.W.2d 756 (Tex. Civ. App., 1945, no writ hist.), the charter having been thereafter amended. However, the Court pointed out, even then, there were two methods whereby the City of Corpus Christi might annex additional territory, one under its charter and the other under Article 1182a.

Appellants' contentions that the instant annexations amount to a taking of their properties without due process contrary to state and federal constitutional provisions are not supported by the record and are without merit. The questions as to what property shall be embraced within a municipal corporation and taxation of same for municipal purposes present questions essentially political and which by the Constitution are to be determined by the Legislature; and, particularly, as to extension of boundaries, by cities operating under the Home Rule Amendment. The constitutional inhibition against taking private property for public use without compensation has reference solely to the exercise of the right of eminent domain and not to taxation for public use. State, ex rel. Pan American Production Co. v. Texas City, 157 Tex. 450, 303 S.W.2d 780 (1957); Norris v. City of Waco, 57 Tex. 635 (1882).

We, therefore, hold as follows: The City of Corpus Christi correctly and properly made the annexations in question under the provisions of its charter and was not required to comply with the provisions of Article 1182a, V.A.T.S. The City was not required to limit the voting in the annexation elections to the legally qualified property taxpaying voters as defined in §3 and §3a, Article VI, Texas Constitution. The City was not required to assume the indebtedness or properties of the districts involved, since only portions thereof were annexed. The questions involved were not required to be submitted both to the voters in the City and in the territory to be annexed. The instant annexations do not amount to a taking of appellants' properties without due process of law and are not in violation of either the Constitution of Texas or the Constitution of the United States of America.

The judgment of the district court is affirmed.

T. GILBERT SHARPE
ASSOCIATE JUSTICE

Opinion delivered and filed on the 19th day of December, 1963.

Constitution of the State of Texas.

Article VI, Section 3. Municipal elections; qualifications of voters.

All qualified electors of the State, as herein described, who shall have resided for six months immediately preceding an election, within the limits of any city or corporate town, shall have the right to vote for Mayor and all other elective officers; but in all elections to determine expenditure of money or assumption of debt, only those shall be qualified to vote who pay taxes on property in said city or incorporated town; provided, that no poll tax for the pay-

ment of debts thus incurred, shall be levied upon the persons debarred from voting in relation thereto.

Article VI, Section 3a. Bond issues; loans of credit; expenditures; assumption of debts; qualifications of voters.

When an election is held by any county, or any number of counties, or any political sub-division of the State, or any political sub-division of a county, or any defined district now or hereafter to be described and defined within the State and which may or may not include towns, villages or municipal corporations, or any city, town or village, for the purpose of issuing bonds or otherwise lending credit, or expending money or assuming any debt, only qualified electors who own taxable property in the State, county, political sub-division, district, city, town or village where such election is held, and who have duly rendered the same for taxation, shall be qualified to vote and all electors shall vote in the election precinct of their residence. (Added Nov. 8, 1932)

Art. 1182a. Annexation of additional territory Election.

Section 1. Whenever the City Commission of any City within this State, acting under and by virtue of any Charter adopted under Home Rule Amendment Article 11, Section 5, of the Constitution of this State, shall initiate or order an election for the extension of the territorial limits of said city to be submitted to the legally qualified property tax paying voters residing within the territorial limits of said city, to determine whether or not the adjacent territory desired to be annexed shall be included wthin the territorial limits of said city, said City Commissioners shall at the same time order an election to be held at some convenient

place within said city limits, so that the legally qualified property tax paying voters residing in the territory contiguous to said city and proposed to be annexed, may appear and cast their vote for the purpose of determining whether a majority of the legally qualified property tax paying voters residing in said territory proposed to be annexed, favor the annexation of said territory proposed to be annexed.

Ballots for election.

Sec. 2. Whenever an election for the annexation of additional territory is held in accordance with the provisions of the foregoing section, said City Commissioners, when ordering such election for the annexation of said territory, shall prepare for the legally qualified property tax paying voters, printed ballots containing the following propositions to be voted on thereat:

"For annexation of additional territory and assumption by the city of all bonded indebtedness flat rates owing to such water control and improvement district *on the territory to be annexed* and the levying and collecting of a tax on all property within the city limits sufficient to pay off and discharge said bonded indebtedness and flat rates."

"Against annexation of additional territory and assumption by the city of all bonded indebtedness and flat rates owing to such water control and improvement district *on the territory to be annexed* and the levying and collecting of a tax on all property within the city limits sufficient to pay off and discharge said bonded indebtedness and flat rates."

Assumption of indebtedness of annexed territory.

Sec. 3. If, at any election to be held under the provisions hereof, a majority of the legally qualified tax paying

voters residing within the territorial limits of such city, and *those residing within the territorial limits proposed to be annexed*, shall each vote in favor of the annexation and such additional territory, said city shall thereby assume all of said bonded indebtedness and flat rates on the territory thus annexed and due such Irrigation District, Water Improvement District or Water Control and Improvement District, or either of them, and shall from thence forth out of the taxes collected on the territory thus annexed pay to said Irrigation District Water Improvement District or Water Control and Improvement District, said bonded indebtedness and flat rates, owing to such district, or either of them, as same become due and payable, and no city thus annexing such territory shall be entitled to collect any taxes due it from the property owners within the territory annexed until said City shall pay such bonded indebtedness and flat rates, for the current year same become due and payable, and present to said property owner a receipt showing that said City has paid the same.

The order of election must give the metes and bounds of the territory to be annexed, and said metes and bounds shall be include[1] and made a part of the ordinance calling for the election.

The election herein provided for shall be ordered by the City Commissioners and the returns canvassed and the results declared as is provided by law for other elections pertaining to said City.

Said ordinance for the election must provide for separate elections and must be issued and public notice given thereof as in other city elections, and provided further that if a majority of the legally qualified property tax paying

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1. Probably should read "included".

voters residing within the territorial limits of said city or if a majority of the legally qualified property tax paying voters residing within the territory desired to be annexed shall not be in favor of such annexations then such annexations shall not be made.

Powers additional to charter provisions.

Sec. 4. Provided further, however, that nothing in this Act shall be held or construed to repeal or nullify any charter provision of any city of over one hundred thousand inhabitants according to the last United States census, operating under Article 11, Section 5 of the Constitution *providing for the annexation of additional territory by ordinance*, but shall be construed as an additional power and cumulative of the said charter provisions. Acts 1929, 41st Leg., p. 251, ch. 110.

AN ACT TO GRANT A CHARTER FOR THE CITY OF CORPUS CHRISTI, IN NUECES COUNTY, TEXAS.

Validating the Acts of the Said City as it Heretofore Existed, Repealing All Laws and Parts of Laws in Conflict Herewith, and Declaring an Emergency. Be It Enacted by the Legislature of the State of Texas:

ARTICLE I

Section 1. INCORPORATION. The Inhabitants of the City of Corpus Christi, Texas, within its corporate limits as established by Chapter 33, Pages 304-351, Special Laws of Texas, 1909, 31st Legislature, Regular Session, and as established or extended by the Charter of the City of Corpus Christi, Texas, as heretofore or hereafter amended,

and as established or extended by ordinances of the City of Corpus Christi, Texas, heretofore or hereafter enacted, be and are hereby constituted a body politic and corporate, in perpetuity, under the name "CITY OF CORPUS CHRISTI," hereinafter referred to as the "City," with such powers, privileges, rights, duties and immunities as are herein provided. (Amendment adopted May 25, 1955).

Section 2. ANNEXATION. The City of Corpus Christi is empowered to annex additional territory adjoining or lying adjacent to the City in the manner set forth in either of the following sub-sections (a), (b), or (c):

(a) The question of annexation of a given territory may be submitted to the qualified voters of the City at an election duly called for such purpose; and if a majority of such qualified voters voting at such election favor the annexation of such territory, the same shall be annexed by ordinance of the City Council; and when any additional territory has been so annexed, the same shall be a part of the City of Corpus Christi and the property therein shall bear its pro rata part of the taxes levied by the City, and the inhabitants thereof shall be entitled to the rights and privileges of all the citizens, and shall be bound by the acts, ordinances, resolutions and regulations of the City. Such question of annexation of any given territory may be submitted to the qualified voters of the City at any time upon the majority vote of the members of the Council. The question of annexation of any given territory may come before the Council for consideration upon either (1) the will of the Council, or (2) the written recommendation of the Zoning and Planning Commission of the City, or (3) petition signed by not less than 1,500 qualified voters of the City, or (4) petition signed by not less than 10% of the qualified voters residing in the territory proposed to be annexed.

(b) The City Council shall have the power by Ordinance to contract with all property owners and contiguous territory proposed for annexation, with instruments in writing duly executed and acknowledged by all persons, corporations and entities owning real property within such property, providing such annexation, in the opinion of the City Council, is deemed to be in the present interest of the City. That upon the introduction of any such ordinance in the City Council, it shall be published, in the form in which it may be finally passed, in a newspaper published in the City of Corpus Christi at least one time, and said ordinance shall not thereafter be finally acted upon until at least thirty (30 days have elapsed after the first publication thereof; and upon the final passage of any such ordinance the boundary limits of the City shall thereafter be extended or fixed as provided in such ordinance; and when any additional territory has been so annexed, the same shall be a part of the City of Corpus Christi, Texas, and the property therein shall bear its pro rata part of the taxes levied by the City, and the inhabitants thereof shall be entitled to the rights and privileges of all the citizens and shall be bound by the acts, ordinances, resolutions and regulations of the city.

(c) The City Council shall have the power by ordinance to annex additional territory abutting and lying adjacent to the City which constitutes or is used for roads, highways, streets, alleys, sidewalks, parks, or any other grounds which are owned by any political subdivision or which have been dedicated to a public use and not exceeding a distance of 200 feet from the City Limits as established by annexation by some other provision of this Charter. (Amendment adopted May 25, 1955)

Section 3. **FORM OF GOVERNMENT AND COUNCIL. The municipal government provided by this

Charter shall be known as the "Council-Manager Government." Pursuant to its provisions and subject only to the limitations imposed by the State Constitution and by this Charter, all powers of the City shall be vested in an elective council, hereinafter referred to as "the Council," which shall enact local legislation, determine policies, appoint the City Manager, and which Council and City Manager shall execute the laws and administer the government of the City. (Amendment adopted May 25, 1955)

6206

AN ORDINANCE.

Ordering an Election to Be Held Within the City of Corpus Christi, Texas, for the Purpose of Determining Whether or Not the Territory Adjacent to the City of Corpus Christi and Described in This Ordinance Shall Be Annexed to the City of Corpus Christi; Defining the Territory Proposed to Be Annexed; Providing Procedure for the Holding of Such Election; Prescribing the Form of Notice of Election; Enacting Provisions Incident to and Relating to the Purpose of This Ordinance; and Declaring an Emergency.

WHEREAS, petitions have been presented to the City Council by more than ten per cent (10%) of the qualified voters residing in the territory hereinafter described proposing the annexation of said territory to the City of Corpus Christi, and in particular the petition filed of January 4, 1961, by Harry Grim and others; and

WHEREAS, study of said petition, the conditions which exist in said area proposed to be annexed, the services of the City of Corpus Christi which could be furnished to said area and other matters relating to the proposed an-

nexation of said area has been proceeding from the time of filing of said petition to the time of the adoption of this ordinance; and

WHEREAS, This Council, after due investigation, has ascertained and determined that said petition is signed by not less than ten percent (10%) of the qualified voters residing in the territory proposed to be annexed and that the territory more specifically described as all of that area contiguous and adjoining present city limits of the City of Corpus Christi, more particularly described as being all of that area extending from the present southeast city limits line which crosses Lexington Boulevard at a point approximately 500 feet east of the intersection of Farm Road 43 and extending along Lexington Boulevard 100 feet on each side of the right of way of said Lexington Boulevard to the eastern side of the Cayo Del Oso and including all of the area north of the King Ranch property line which runs parallel to and approximately one-half mile south of Yorktown Road and being the south boundary line of Sections 38, 51 and 52 of Flour Bluff and Encinal Farm and Garden Tracts; said area to be annexed being bounded on the East by Laguna Madre, on the North by the Southern property line of U. S. Naval Air Station and on the West by the eastern bank of Cayo Del Oso, except for that area also proposed to be annexed extending 100 feet on either side of Lexington Boulevard to the present city limits line of the City of Corpus Christi; and

WHEREAS, all of said territory is found to be and constitute one body of land adjoining the city limits of the City of Corpus Christi, Texas, and should be submitted to the voters of the City for annexation; and

WHEREAS, the Council deems it desirable, and it is the will of the Council to annex said area to said City of

Corpus Christi, if the same be approved by the qualified voters of the City of Corpus Christi:

NOW, THEREFORE, *BE IT ORDAINED* BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

SECTION 1. That an election be held on the 5th day of August, 1961, within the City of Corpus Christi and that there be submitted at said election to the qualified voters of said City the question of whether or not certain territory should be annexed to the City of Corpus Christi, Texas, said territory being described generally as hereinabove set forth and more particularly described as follows:

BEGINNING at a point on the present city limits line of the City of Corpus Christi, approximately 500 feet east from the intersection of Lexington Boulevard with Farm Road No. 43 where said city limits line crosses the centerline of the right of way of Lexington Boulevard for the place of beginning;

THENCE along the present city limits line in a southerly or southwesterly direction to a point of 100 feet southwesterly from the southern right of way line of Lexington Boulevard for a corner;

THENCE in an easterly direction parallel to the centerline of Lexington Boulevard at a distance of 100 feet from the south right of way line of Lexington Boulevard to the eastern edge of the Cayo Del Oso;

THENCE in a southerly direction along the meanders of the eastern bank of the Cayo Del Oso to the point on said bank intersected by the southern boundary line of Section 38 of Flour Bluff and Encinal Farm and Garden tracts as shown by map or plat of said Farm and Garden Tracts on file in the office of the County Clerk of Nueces County, Texas;

THENCE in an easterly direction along the common boundary line between the King Ranch property and Flour Bluff and Encinal Farm and Garden Tracts, said line being the southern boundary line of Sections 38, 51 and 52 of said Flour Bluff and Encinal Farm and Garden Tracts to the point of intersection of the southern boundary line of said Section 52 and the northern boundary of King Ranch property with the western boundary line of Laguna Madre;

THENCE in a northerly direction along the meanders of Laguna Madre in a northerly direction to the point of intersection of the southern boundary line of U. S. Naval Air Station property approximately 1320 feet from the north line of Section 56 of the Flour Bluff and Encinal Farm and Garden Tracts for a corner;

THENCE along the southern boundary line of the U. S. Naval Air Station in a westerly and southwesterly direction to a point on the eastern bank of Cayo Del Oso at a point approximately ½ mile north of the southern boundary line of Section 42 of said Flour Bluff and Encinal Farm and Garden Tracts;

THENCE in a southerly direction along the eastern edge of Cayo Del Oso to a point 100 feet north of the right of way line of the northern right of way line of Lexington Boulevard and thence in a westerly direction parallel to the centerline of Lexington Boulevard at a distance of 100 feet from the northern boundary line of the right of way of Lexington Boulevard to a point on the eastern city limits line of the City of Corpus Christi;

THENCE in a southerly direction along the said eastern city limits line of the City of Corpus Christi to the place of beginning.

SECTION 2. That the official ballot for said election shall be, except for caption and date and other formalities as may be provided by law for the form of said ballot, as

hereinafter set out, and the proposition to be voted on at said election shall be as follows:

"PROPOSITION No. 1

Shall the City of Corpus Christi, by ordinance, annex to said City certain additional territory referred to and described in the ordinance ordering an election passed July 12, 1961, to the City of Corpus Christi and its corporate limits, said territory being generally described as an area extending eastward for a distance of 100 feet on each side of Lexington Boulevard from the present eastern city limits of the City of Corpus Christi to the eastern edge of Cayo Del Oso and including all of the area bounded on the south by the King Ranch property, on the West by the eastern edge of the Cayo Del Oso, on the North by the U. S. Naval Air Station property and on the East by the Laguna Madre."

All voters who favor the annexation of the territory as herein described and as generally provided in Proposition No. 1 shall have written or printed on their ballots the following words:

"PROPOSITION No. 1

FOR THE ANNEXATION OF SUCH ADDITIONAL TERRITORY REFERRED TO IN THE ORDINANCE ORDERING AN ELECTION PASSED JULY 12, 1961"

and those opposed to the annexation of the territory hereinbefore described in Section 1 hereof and referred to and as generally provided in Proposition No. 1 shall have written or printed on their ballots the following words:

"PROPOSITION No. 1

AGAINST THE ANNEXATION OF SUCH ADDITIONAL TERRITORY REFERRED TO IN THE ORDINANCE ORDERING AN ELECTION PASSED JULY 12, 1961."

SECTION 3. If at said election a majority of the duly qualified voters who reside within the City of Corpus Christi voting at said election shall vote in favor of the annexation to the City of Corpus Christi of the territory herein described in Section 1 hereof and referred to herein, and as generally provided in Proposition No. 1, the City Council shall, by ordinance, annex and receive such territory as a part of said City, and thereafter such territory so annexed and received shall be a part of the City of Corpus Christi, Texas.

SECTION 4. A copy of this ordinance, signed by the Mayor of the City of Corpus Christi, Texas, shall constitute the notice ordering said election, and the Mayor is directed to cause a copy of this ordinance, signed by him, to be posted at the City Hall in the City of Corpus Christi, Nueces County, Texas, and at each of the polling places in each precinct of the City, said posting to be not less than fifteen (15) days prior to said election, and to have a copy of this ordinance published in the Corpus Christi Times, the official newspaper of the City of Corpus Christi, Texas, it being a newspaper of general circulation, published within the City of Corpus Christi, said publication to be made in accordance with the requirements of law.

SECTION 5. Said election shall be held in the City of Corpus Christi, Texas, at the following places and the following named persons are hereby named judges and officials at said election:

(LIST OF POLLING PLACES AND JUDGES OMITTED.)

The presiding judges shall be authorized to select such clerks or other assistants provided by law, as may be deemed necessary and said election shall be held in accordance with the provisions of law relating to elections for the submission of amendments to municipal charters and the general laws of the State of Texas shall be observed insofar as they are applicable. The polls shall be open from 7 o'clock A.M. to 7 o'clock P.M. on date of the said election.

SECTION 6. That voting machines shall be employed at the election herein ordered in accordance with the provisions of Revised Civil Statutes of Texas Election Code, Article 7.14, and said election shall be held at the polling places in the regularly prescribed voting precincts of the City of Corpus Christi.

Absentee voting shall be conducted by the City Secretary at his office in the City Hall and the results canvassed and returns made as is provided by law. A special canvass board is hereby appointed as follows:

Edna Meador, Presiding Judge
Doris Francis, Assistant Judge
Wanda Dipple, Clerk

SECTION 7. That said election shall be held in accordance with the general election laws of the State of Texas.

SECTION 8. *The fact that a petition for annexation to the City of Corpus Christi by the voters of the territory described in the above ordinance has been on file with the City since January 4, 1961,* and *that it has been determined*

that an election should be called submitting the question of annexation of said territory to the voters creates a public emergency and an imperative public necessity requiring the suspension of the Charter rule that no ordinance or resolution shall be passed finally on the date it is introduced and that such ordinance or resolution shall be read at three several meetings of the City Council, and the Mayor. having declared such emergency and imperative public necessity to exist, and having requested that such Charter rule be suspended and that this ordinance be passed finally on the date of its introduction and take effect and be in full force and effect from and after its passage, IT IS ACCORDINGLY SO ORDAINED.

PASSED AND APPROVED, this the 12th day of July, 1961.

ATTEST:

.....

MAYOR

THE CITY OF CORPUS CHRISTI, TEXAS

.....

City Secretary

APPROVED AS TO LEGAL FORM

THIS 12TH DAY OF JULY, 1961:

J. M. Singer, City Attorney

Corpus Christi, Texas
12 day of July, 1961

TO THE MEMBERS OF THE CITY COUNCIL

Corpus Christi, Texas

For the reasons set forth in the emergency clause of the foregoing ordinance, a public emergency and imperative necessity exist for the suspension of the Charter rule or requirement that no ordinance or resolution shall be passed finally on the date it is introduced, and that such ordinance or resolution shall be read at three meetings of the City Council; I, therefore, hereby request that you suspend said Charter rule or requirement and pass this ordinance finally on the date it is introduced, or at the present meeting of the City Council.

Respectfully,

BEN F. McDONALD
MAYOR

The Charter rule was suspended by the following vote:

Ben F. McDonald, Aye
Tom R. Swantner, Absent
Dr. James L. Barnard, Aye
Jose R. DeLeon, Aye
M. P. Maldonado, Absent
W. J. Roberts, Absent
James H. Young, Aye

The above ordinance was passed by the following vote:

Ben F. McDonald, Aye
Tom R. Swantner, Absent
Dr. James L. Barnard, Aye
Jose R. DeLeon, Aye

M. P. Maldonado, Absent
W. J. Roberts, Absent
James H. Young, Aye

(Plaintiffs' Exhibit No. 7)

AN ORDINANCE No. 6242

By the City Council of the City of Corpus Christi, Texas, Receiving into and Annexing to the City of Corpus Christi, Texas, Certain Additional Territory, Sometimes Referred to As the "Flour Bluff" Area, Fully Describing Said Territory As an Integral Part of the City of Corpus Christi, Texas, and Defining Its Limits; and Declaring Same As Annexed to and Made a Part of the City of Corpus Christi, Texas; and Declaring an Emergency.

WHEREAS, on the 4th day of January, 1961, *there was presented* to the City Council of the City of Corpus Christi, Texas, *a petition* from the resident voters of an area adjacent to the City, *which petitioned the City Council that certain additional territory should be annexed* to the City of Corpus Christi; *that such petition contained the full and accurate description of two separate tracts of land*; and

WHEREAS, the City Council, *after due investigation and consideration of said petition*, and in compliance with Section 2 of Article 1 of the Charter of the City of Corpus Christi, as amended, did on the 12th day of July, by Ordinance No. 6206, order that an election be held on the 5th day of August, 1961, within the City limits of the City of Corpus Christi for the purpose of submitting to the qualified voters of said City the question of whether or not said territory, as described in said ordinance, being Ordinance No. 6206, be annexed to the City of Corpus Christi, and the

territory to be voted was fully and completely described in said ordinance; and

WHEREAS, an election was held on the 5th day of August, 1961, in accordance with the provisions of said ordinance and in accordance with the ordinances and Charter of the City of Corpus Christi and in accordance with the statutes of the State of Texas regarding such elections, and the question of such annexation of said additional territory was submitted to the qualified voters of the City by two propositions, as follows:

PROPOSITION No. 1

"SHALL THE CITY OF CORPUS CHRISTI, BY ORDINANCE, ANNEX TO SAID CITY CERTAIN ADDITIONAL TERRITORY REFERRED TO AND DESCRIBED IN THE ORDINANCE ORDERING AN ELECTION PASSED JULY 12, 1961, TO THE CITY OF CORPUS CHRISTI AND ITS CORPORATE LIMITS, SAID TERRITORY BEING GENERALLY DESCRIBED AS AN AREA EXTENDING EASTWARD FOR A DISTANCE OF 100 FEET ON EACH SIDE OF LEXINGTON BOULEVARD FROM THE PRESENT EASTERN CITY LIMITS OF THE CITY OF CORPUS CHRISTI TO THE EASTERN EDGE OF CAYO DEL OSO AND INCLUDING ALL OF THE AREA BOUNDED ON THE SOUTH BY THE KING RANCH PROPERTY, ON THE WEST BY THE EASTERN EDGE OF THE U. S. NAVAL AIR STATION PROPERTY AND CAYO DEL OSO, ON THE NORTH BY THE ON THE EAST BY THE LAGUNA MADRE."

which said area to be annexed was fully described following said presentations of such propositions in the ordinance submitting the question of annexation of said additional territory to the voters; and the returns of said election were duly made to this Council; and

WHEREAS, on the 5th day of August, 1961, at a Special meeting of the City Council of the City of Corpus Christi came on said matter of canvassing said returns of said election, and at said meeting it was found and determined that there were cast at said election 4177 votes on said Proposition No. 1 as follows:

"FOR THE ANNEXATION OF SUCH ADDITIONAL TERRITO-DINANCE ORDERING AN ELECTION PASSED JULY 12TH, 1961," 2477 votes

AGAINST THE ANNEXATION OF SUCH ADDITIONAL TERRITORY REFERRED TO IN THE ELECTION PASSED JULY

12TH, ORDINANCE ORDERING AN 1961, 1700 votes

and the City Council thereupon declared the results of said election to be that a majority of the legally qualified voters of the City of Corpus Christi voted in favor of annexation to the City of Corpus Christi the territory as hereinabove described and as will be hereinafter fully described by metes and bounds; and

Whereas, in order to comply with Section 2 of Article 1 of the Charter of the City of Corpus Christi, Texas, as amended, it is necessary after the election has been completed and the vote is favorable for annexation that the City Council shall, by ordinance, annex the area voted upon; and

WHEREAS, the City Council *deems it to be the best interest of the City of Corpus Christi, Texas, that said territory, as hereinbefore listed and described which the voters* of the City of Corpus Christi have by a majority vote declared should be annexed to the City, *be annexed to and received into and included within the territorial limits of*

said City to become an integral part thereof, and subject to the rules, regulations, ordinances and the Charter of said City as well as becoming charged with the burden of said City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

SECTION 1. That the territory hereinafter defined and described by metes and bounds as follows:

BEGINNING at a point on the present city limits line of the City of Corpus Christi, approximately 500 feet east from the intersection of Lexington Boulevard with Farm Road No. 43 where said city limits line crosses the centerline of the right of way of Lexington Boulevard for the place of beginning;

THENCE along the present city limits in a southerly or southwesterly direction to a point of 100 feet southwesterly from the southern right of way line of Lexington Boulevard for a corner;

THENCE in an Easterly direction parallel to the centerline of Lexington Boulevard at a distance of 100 feet from the south right of way line of Lexington Boulevard to the eastern edge of the Cayo Del Oso;

THENCE in a southerly direction along the meanders of the eastern bank of the Cayo Del Oso to the point on said bank intersected by the southern boundary line of Section 38 of Flour Bluff and Encinal Farm and Garden Tracts as shown by map or plat of said Farm and Garden Tracts on file in the office of the County Clerk of Nueces County, Texas;

THENCE in an easterly direction along the common boundary line between the King Ranch property and Flour Bluff and Encinal Farm and Garden Tracts, said line being the southern boundary line of Sections

38, 51 and 52 of said Flour Bluff and Encinal Farm and Garden Tracts to the point of intersection of the southern boundary line of said Section 52 and the northern boundary of King Ranch property with the western boundary line of Laguna Madre;

THENCE in a northerly direction along the meanders of Laguna Madre in a northerly direction to the point of intersection of the southern boundary line of U. S. Naval Air Station property approximately 1320 feet from the north line of Section 56 of the Flour Bluff and Encinal Farm and Garden Tracts for a corner;

THENCE along the southern boundary line of the U. S. Naval Air Station in a westerly and southwesterly direction to a point on the eastern bank of Cayo Del Oso at a point approximately ½ mile north of the southern boundary line of Section 42 of said Flour Bluff and Encinal Farm and Garden Tracts;

THENCE in a southerly direction along the eastern edge of Cayo Del Oso to a point 100 feet north of the right of way line of the northern right of way line of Lexington Boulevard and thence in a westerly direction parallel to the centerline of Lexington Boulevard at a distance of 100 feet from the northern boundary line of the right of way of Lexington Boulevard to a point on the eastern city limits line of the City of Corpus Christi;

THENCE in a southerly direction along the said eastern city limits line of the City of Corpus Christi to the place of beginning.

be and the same is annexed to the City of Corpus Christi, Texas, and is received into said City, and is included within the territorial limits of said City as an integral part thereof, and that said territory shall hereinafter be a part of the City of Corpus Christi, Texas, and shall be subject to the general laws of the State of Texas, the City Charter of said City and the ordinances, resolutions and laws of the

City of Corpus Christi, Texas, to all intents and purposes as the present City of Corpus Christi, and subject to all the same rights, privileges and burdens thereof.

SECTION 2. The fact that such election has been held and the votes counted and canvassed and the results of the election declared in favor of annexation of such territory, to said City, and it is important to the residents of such territory that annexation of such territory be immediately completed, creates a public emergency and an imperative public necessity requiring the suspension of the Charter rule that no ordinance or resolution shall be passed finally on the date it is introduced and that such ordinance or resolution shall be read at three several meetings of the City Council, and the Mayor, having declared such emergency and necessity to exist, having requested that such Charter rule be suspended, and that this ordinance be passed finally on the date of its introduction and take effect and be in full force and effect from and after its passage, IT IS ACCORDINGLY SO ORDAINED.

PASSED AND APPROVED this the 5th day of August, 1961.

/s/ Ben F. McDonald
MAYOR
THE CITY OF CORPUS CHRISTI

ATTEST:

/s/ T. Ray Kring
City Secretary

APPROVED AS TO LEGAL FORM
THIS 15TH DAY OF AUGUST, 1961:

/s/ I. M. Singer
City Attorney

Corpus Christi, Texas
5th day of Aug., 1961

TO THE MEMBERS OF THE CITY COUNCIL
Corpus Christi, Texas

For the reasons set forth in the emergency clause of the foregoing ordinance, a public emergency and imperative necessity exist for the suspension of the Charter rule or requirement that no ordinance or resolution shall be passed finally on the date it is introduced, and that such ordinance or resolution shall be passed finally on the date it is introduced, and that such ordinance or resolution shall be read at three meetings of the City Council; I, therefore, hereby request that you suspend said Charter rule or requirement and pass this ordinance finally on the date it is introduced, or at the present meeting of the City Council.

Respectfully,

/s/ Ben F. McDonald
MAYOR
THE CITY OF CORPUS CHRISTI, TEXAS

The Charter Rule was suspended by the following vote:

Ben F. McDonald, Aye
Tom R. Swantner, Absent
Dr. James L. Barnard, Aye
Jose R. DeLeon, Aye
M. P. Maldonado, Absent
W. J. Roberts, Aye
James H. Young, Aye

The above ordinance was passed by the following vote:

Ben F. McDonald, Aye
Tom R. Swantner, Absent

Dr. James L. Barnard, Aye
M. P. Maldonado, Absent
Jose R. DeLeon, Aye
W. J. Roberts, Aye
James H. Young, Aye

CERTIFICATE

THE STATE OF TEXAS)
COUNTY OF NUECES)

I, the undersigned, City Secretary of the City of Corpus Christi, Texas, do certify that the foregoing is a true and correct copy of Ordinance No. 6242, passed and approved by the City Council during the Special Meeting held on the 5th day of August, 1961, as same appears in the official records of the City of Corpus Christi, Texas, of which records I am the lawful custodian.

WITNESSETH My Hand and the Official Seal of the City of Corpus Christi, Texas, this 7th day of August, A.D., 1961.

T. RAY KRING, City Secretary
City of Corpus Christi, Texas

(SEAL)

No. 6586

AN ORDINANCE

Ordering an Election to Be Held in the City of Corpus Christi, Texas, for the Purposes of Determining Whether or Not the Territory Adjacent to the City of Corpus Christi and Described Herein Shall Be Annexed to the City of Corpus Christi and Fixing New Boundaries for the City of Corpus Christi; Defining the Territory Proposed to Be Annexed; Providing Procedure for the Holding of Such Election; Setting a Date for Said Election and Enacting Provisions Incident to and Relating to the Purpose of This Ordinance.

WHEREAS, it is the will of the Council that there be submitted to the qualified voters of the City of Corpus Christi at an election as hereinafter provided the question of annexing certain territory to the City of Corpus Christi so that thereafter, if such election carries in favor of annexation, the new boundary of the City of Corpus Christi will be as hereinafter described; and

WHEREAS, the Council deems it desirable and it is the will of the Council to annex said additional territory to the City of Corpus Christi, if the same be approved for annexation by the qualified voters of the City of Corpus Christi:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

SECTION 1. That an election be held on the 15th day of September, 1962, within the City of Corpus Christi and that there be submitted at said election to the qualified voters of said City the question of whether or not certain territory should be annexed to the City of Corpus

Christi, Texas, said territory to be annexed consisting of all of the area lying between the present boundary of the City of Corpus Christi and the proposed boundary as hereinafter set forth wholly within said proposed new boundary line, and more particularly described as follows:

TRACT NUMBER ONE

(1) Beginning at the southeast corner of the U. S. Naval Air Station property, Corpus Christi, Texas, said point being on the west shoreline of Laguna Madre; thence in a southwesterly direction along the west shoreline of Laguna Madre, which generally follows a southerly direction to a point where it intersects the fill area of the Padre Island Causeway;

(2) Thence continuing along the north line of the fill area to the Humble Channel;

(3) Thence along the west bank of the Humble Channel to the south line of the fill area;

(4) Thence in a westerly direction along the south line of the fill area to the west shoreline of Laguna Madre;

(5) Thence in a southerly direction with the west shoreline of Laguna Madre to the south boundary line of Section 52 of the Flour Bluff and Encinal Farm and Garden Tracts;

(6) Thence in a westerly direction with the south boundary line of Sections 52, 51 and 38 to its intersection with the east shoreline of Cayo Del Oso;

(7) Thence in a northerly direction with the meanders of the east shoreline of Cayo Del Oso to its intersection with the southeasterly extension of the northeast boundary line of Saratoga Road;

(8) Thence in a northwesterly direction with the southeasterly extension of the northeast boundary line of Saratoga Road crossing Cayo Del Oso and continuing in a northwesterly direction with the northeast boundary line of Saratoga Road and its northwesterly extension, continuing upon a straight line across all road intersections crossed, to its intersection with the east right of way line of State F.M. Road No. 763;

(9) Thence in a westerly direction crossing F.M. Road No. 763 at right angles thereto to a point in the west right of way line of F.M. Road No. 763;

(10) Thence in a northwesterly direction on a direct line to a point in the south right of way line of State Highway No. 44, said point being in the southerly extension of the west right of way line of Rand Morgan Road;

(11) Thence in a northerly direction with the southerly extension of the west right of way line of Rand Morgan Road crossing State Highway No. 44 and continuing with the west right of way line of Rand Morgan Road to its intersection with the southwest right of way line of a 40-foot wide water line easement conveyed to the City of Corpus Christi by deed dated 9 April 1954 and recorded in Vol. 634 Page 244 Deed Records of Nueces County, Texas, being approximately 645 feet north of the north right of way line of the Texas Mexican Railway right of way;

(12) Thence in a northwesterly direction with the southwest right of way line of said water line easement and other 40-foot easements for the same water line across other tracts contiguous to the above described easement, to an angle point;

(13) Thence continuing along and with the southwest right of way line of an easement conveyed to the

City of Corpus Christi by instrument dated 16 March 1954 of record in Vol. 634 Page 287, Deed Records of Nueces County, Texas, to another angle point at Violet Road (F.M. 24);

(14) Thence continuing along and with the southwest right of way line of easements conveyed to the City of Corpus Christi, Texas, by instrument dated 18 March 1954 of record in Vol. 634 Page 291, Deed Records of Nueces County, Texas, and instrument dated 7 April 1954 of record in Vol. 634 Page 294, Deed Records of Nueces County, Texas, to a point in the northeast boundary line of a 100 acre tract of land now or formerly in the name of Ruth Merritt and Arthur Merritt;

(15) Thence N 53° W with the northeast boundary line of said 100 acre tract and the southwest boundary line of a 108.5 acre tract and continuing along the southwest boundary line of the Harney Partition and the southwest boundary line of a 161.15 acre tract now or formerly in the name of M. W. Hearn et al. to a point in the southeast right of way line of F. M. Road No. 1694;

(16) Thence continuing along this same line crossing F. M. Road No. 1694 and continuing along the southwest boundary line of Central Power and Light Company 105.76 acre tract to the southwest corner thereof, said point being in the east right of way line of the St. Louis, Brownsville and Mexico Railroad (also called Missouri Pacific Railroad) right of way;

(17) Thence continuing along this same line crossing the St. Louis, Brownsville and Mexico Railroad right of way and continuing along the southwest boundary line of a 135.68 acre tract of land now or formerly in the name of P. M. Rushing and the northeast boundary line of a 294 acre tract now or formerly in the name of Kitty

Wolfe Gentry to its intersection with the east right of way line of State Highway No. 77;

(18) Thence in a westerly direction crossing State Highway No. 77 at right angles thereto to a point in the west right of way line of State Highway No. 77;

(19) Thence in a northerly direction with the west right of way line of State Highway No. 77 as widened, crossing F.M. Road 624 and continuing along the west right of way of U.S. Highway No. 77 to its intersection with the west right of way line of Calallen Drive;

(20) Thence in a northerly direction along the west right of way line of Calallen Drive to a point on a line that is 50 feet southwest of and parallel to the southwest boundary line of River Forest Subdivision;

(21) Thence in a northerly direction with a line that is 50 feet southwest of and parallel to the southwest boundary line of River Forest Subdivision to a point in the southeast boundary line of a 7.07 acre tract of land conveyed to the City of Corpus Christi;

(22) Thence in a southwesterly direction with the southeast boundary line of said City of Corpus Christi tract to the most southerly corner thereof;

(23) Thence in a northwesterly direction with the southwest boundary line of said City of Corpus Christi tract to a point on the south side of the Nueces River, being a point on the low-water line of the right side of the river going downstream;

(24) Thence downstream with the meanders of the low-water line on the right side of the Nueces River going downstream to its intersection with the west right of way line of State Highway No. 9 near the Nueces River Bridge;

(25) Thence in a southerly direction with the west right of way line of State Highway No. 9 to its intersection with the westerly extension of the north boundary line of Lot 17 of the Calallen Irrigation Gardens Subdivision.

(26) Thence crossing State Highway No. 9 in an easterly direction with the westerly extension of the north boundary line of said Lot 17 of the Calallen Irrigation Gardens Subdivision to its intersection with the east right of way line of the Missouri Pacific Railroad right of way;

(27) Thence in a southerly direction with the east right of way line of the Missouri Pacific Railroad right of way and the southwest boundary line of Sharpsburg Road to their point of divergence;

(28) Thence in a southeasterly direction with the southwest right of way line of Sharpsburg Road to its intersection with the westerly extension of the north boundary line of an 8.88 acre tract of land now or formerly in the name of H. D. Countiss;

(29) Thence in an easterly direction with the westerly extension of said 8.88 acre tract crossing Sharpsburg Road and continuing with the north boundary line of said 8.88 acre tract and the northwest boundary line of a 67.826 acre tract owned by the City of Corpus Christi, Texas, to its intersection with the right-side low-water line of the Nueces River going downstream;

(30) Thence in an easterly direction with the meanders of the right-side low-water line of the Nueces River going downstream to its intersection at a dredged boat slip, with a property line which bears approximately S 4° 45′ E, which line when extended southerly intersects the centerline of Up River Road (Shell Road) a distance

of 120 feet more or less northwest of the centerline of Sandy Ridge Road;

(31) Thence in a southerly direction with said property line to a point in the north right of way line of Up River Road (Shell Road);

(32) Thence in a southeasterly direction with the north right of way line of Up River Road (Shell Road) to its intersection with the north right of way line of Proposed Interstate Highway No. 37 as established by the Texas Highway Department following the Public Hearing of March 22, 1961;

(33) Thence in an easterly direction with the north right of way line of the proposed Interstate Highway No. 37 and with the flares of its intersections and interchanges, to those points at which normal right of way width is reached on connecting roads on the north side thereof, to the intersection of said north right of way line with the southeast boundary line of the Katie, Alice and Helen Dunn 110.8 acre tract, said point of intersection lying on the present City Limits Line;

(34) Thence in a northeasterly direction with the southeast boundary line of the Katie, Alice and Helen Dunn 110.8 acre tract and the southeast boundary line of the Mary Dunn Meany 30 acre tract and crossing Up River Road (Shell Road) to a point in the north boundary line of said road;

(35) Thence in a southeasterly direction with the northeast right of way line of Up River Road (Shell Road) to its intersection with the east boundary line of an 87.71 acre tract of land now or formerly in the name of Corpus Christi Golf and Country Club;

(36) Thence in a northerly direction with the east boundary line of said 87.71 acre tract to the southwest corner of a 5.37 acre tract now or formerly in the name of Alvin Herberick;

(37) Thence in an easterly direction with the south boundary line of said 5.37 acre tract to a point in the west right of way line of Cantwell Lane;

(38) Thence in a southerly direction with the west right of way line of Cantwell Lane to its intersection with the north right of way line of Up River Road (Shell Road);

(39) Thence in an easterly direction with the north right of way line of Up River Road (Shell Road) to its intersection with the north right of way line of the proposed Interstate Highway No. 37;

(40) Thence in an easterly direction with the north right of way line of the proposed Interstate Highway No. 37 to its intersection with the northwest boundary line of Country Club Place Subdivision;

(41) Thence in a northeasterly direction with the northwest boundary line of the Country Club Place Subdivision to the north corner thereof;

(42) Thence in a southeasterly direction with the northeast boundary line of Country Club Place Subdivision to the east corner thereof, the same being the southwest boundary line of Poth Lane;

(43) Thence in a northeasterly direction with the northwest boundary line of Poth Lane to its intersection with the northwesterly extension of the northeast boundary line of Harbor View Estates Subdivision;

(44) Thence in a southeasterly direction with the northwesterly extension of the northeast boundary line

of Harbor View Estates Subdivision and the northeast boundary line thereof to the northwest boundary line of an 8.3 acre tract of land now or formerly in the name of Pontiac Refining Company;

(45) Thence in a southwesterly direction with the northwest boundary line of the said 8.3 acre tract to a point in the northeast boundary line of Block 2, Oak Lawn Subdivision;

(46) Thence in a southeasterly direction with the northeast boundary line of Oak Lawn Subdivision and its southeasterly extension to a point in the west boundary line of Baymoor Subdivision;

(47) Thence in a northerly direction with the west boundary line of Baymoor Subdivision to the northwest corner thereof;

(48) Thence in a southeasterly direction with the northeast boundary line of said Baymoor Subdivision and the southeasterly extension thereof to a point in the east right of way line of Nueces Bay Boulevard;

(49) Thence in a northeasterly direction with the southeast right of way line of Nueces Bay Boulevard to its intersection with the original City Limits line as surveyed by C.F.H. von Blucher in August 1883, said intersection being near the intersection of Nueces Bay Boulevard and Nueces Street;

(50) Thence in a northerly direction with the original City Limits line as surveyed by C.F.H. von Blucher in August, 1883, to the north corner of said original City Limits line;

(51) Thence in an easterly direction with the original City Limits line as surveyed by C.F.H. von Blucher in August 1883, to its intersection with the southwesterly

extension of the centerline of Avenue "F" in Brooklyn Addition;

(52) Thence in a northwesterly direction with the southwesterly extension of the centerline of Avenue "F" and with the centerline of Avenue "F" to its intersection with the south shoreline of Nueces Bay;

(53) Thence in a westerly direction with the meanders of the south shoreline of Nueces Bay to its intersection with the south boundary line of State Survey No. 708 or its easterly extension;

(54) Thence in a westerly direction with the easterly extension of and with the south boundary of State Survey No. 708 to a point on the south boundary line of State Survey No. 708 which is 2000 feet west of the southeast corner thereof;

(55) Thence N 25° E to a point on a line that is 1500 feet north of and parallel to the south boundary line of State Survey Nos. 708, 723, 706 and 746;

(56) Thence in a westerly direction with a line 1500 feet north of and parallel to the south boundary line of State Surveys Nos. 708, 723, 706 and 746 to a point 1900 feet east of the west boundary line of State Survey No. 746;

(57) Thence in a southerly direction with a line that is 1900 feet east of and parallel to the west boundary line of State Survey No. 746 to a point in the south boundary line of said State Survey No. 746;

(58) Thence in a westerly direction with the south boundary line of State Survey No. 746, at 1900 feet passing the southwest corner thereof, and with the south boundary lines of State Surveys Nos. 750, 689 and 691 to the southwest corner of said Survey No. 691;

(59) Thence in a northerly direction with the west boundary line of State Survey No. 691 and its northerly extension to a point in the south line of State Survey No. 686;

(60) Thence in an easterly direction with the south line of State Survey No. 686 to the southeast corner thereof;

(61) Thence in a northerly direction with the east line of State Survey No. 686 and the northerly extension thereof to a point on the north shoreline of Nueces Bay;

(62) Thence in an easterly direction with the meanders of the north shoreline of Nueces Bay to a point in the east line of State Survey No. 751;

(63) Thence in a southerly direction with the east lines of State Surveys Nos. 751 and 753 to a point on the shoreline of Nueces Bay;

(64) Thence in a southerly and easterly direction with the shoreline of Nueces Bay and Corpus Christi Bay to a point in the northeast boundary line of State Survey No. 41;

(65) Thence in a southeasterly direction with the northeast boundary of State Survey No. 41 to its most easterly corner;

(66) Thence in a northeasterly direction on a direct line to the east corner of State Survey No. 12;

(67) Thence in a northwesterly direction with the northeast boundary line of State Survey No. 12 to a point on the shoreline of Corpus Christi Bay;

(68) Thence in an easterly direction with the north shoreline of Corpus Christi Bay to its intersection with the northeast line of State Survey No. 417;

(69) Thence in a southeasterly direction with the northeast line of State Survey No. 417 to its east corner;

(70) Thence in a southwesterly direction with the southeast boundary line of State Surveys or Mineral Leases Nos. 417, 420, 447, 450, 475, 33, 50, 51, 66, 67 and 78 to its intersection with the south shoreline of Corpus Christi Bay;

(71) Thence in an easterly direction with the meanders of the south shoreline of Corpus Christi Bay to its intersection with a line that is 10 feet west of and parallel to the west abutment of a bridge constructed by Nueces County in 1962, being the bridge across the main branch of Oso Creek between Cayo del Oso and Corpus Christi Bay;

(72) Thence in a southerly direction with a line that is parallel to and 10 feet west of the west abutment of said bridge to a point 100 feet south of the centerline of said bridge;

(73) Thence in an easterly direction parallel to and 100 feet south of said centerline to a point on the east shoreline of Cayo Del Oso;

(74) Thence in a southerly and southeasterly direction with the meanders of the east shoreline of Cayo Del Oso to a point on the west boundary of Lot 13, Section 42, Flour Bluff and Encinal Farm and Garden Tracts, said point also being the shoreline corner of the U. S. Naval Air Station property;

(75) Thence in a northerly direction with the west boundary of said Lot 13, Section 42, Flour Bluff and Encinal Farm and Garden Tracts to the northwest corner thereof;

(76) Thence in an easterly direction with the north boundary line of Lots 13, 14 and 15, Section 42 and Lot 17, Section 47, Flour Bluff and Encinal Farm and Garden

Tracts, being also a boundary of the U. S. Naval Air Station property, to the northeast corner of said Lot 17, Section 47;

(77) Thence in a northerly direction with the west boundary line of Lot 15, Section 47, Flour Bluff and Encinal Farm and Garden Tracts, being also a boundary of the U. S. Naval Air Station, to the northwest corner of said Lot 15;

(78) Thence in an easterly direction with the north boundary line of Lots 15, 14, 13 and 12, Section 47, Flour Bluff and Encinal Farm and Garden Tracts, being also a boundary of the U. S. Naval Air Station, to a point, said point being a common corner of Lots 12, 11 and 6, Section 47, Flour Bluff and Encinal Farm and Garden Tracts;

(79) Thence in a northerly direction with the western boundary of said Lot 6, Section 47, Flour Bluff and Encinal Farm and Garden Tracts, being also a boundary of the U. S. Naval Air Station, to the northwest corner of said Lot 6;

(80) Thence in an easterly direction with the north boundary line of Lots 6, 7 and 8, Section 47, and Lots 1 and 2, Section 56, Flour Bluff and Encinal Farm and Garden Tracts, being also a boundary of the U. S. Naval Air Station, to a point, said point being a common corner of Lots 2 and 3, Section 56, and Lot 18, Section 57, Flour Bluff and Encinal Farm and Garden Tracts;

(81) Thence in a northerly direction with the west boundary line of Lot 18, Section 57, Flour Bluff and Encinal Farm and Garden Tracts, being also a boundary line of the U. S. Naval Air Station, to the northwest corner of said Lot 18;

(82) Thence in an easterly direction with the north boundary line of Lots 18, 17, 16 and 15, Section 57, Flour

Bluff and Encinal Farm and Garden Tracts to the place of beginning on the west shoreline of Laguna Madre;

In addition, Tract Number Two as described below is included in the proposed City Limits:

TRACT NUMBER TWO

(1) Beginning at a point on the low-water line of the right side of Nueces River going downstream, said point being on the southwest boundary line of a 7.07 acre tract conveyed to the City of Corpus Christi, and being the same point reached by Call Number 23 in the description of Tract Number One above, thence downstream with the meanders of the low-water line on the right side of the Nueces River going downstream, passing those points reached by Calls Numbers 24, 29 and 30 in the description of Tract Number One above, to the intersection of the right-side low-water line of the Nueces River and with the south shoreline of Nueces Bay to their intersection with the west line of State Mineral Lease No. 691, being at a point in the present City Limits line and on the same line described in Call Number 59 in the description of Tract Number One above;

(2) Thence in a northerly direction with the west line of said State Mineral Lease No. 691 to its intersection with a line that is 1000 feet northeast of and parallel to the south shoreline of Nueces Bay and the right low-water line of the Nueces River going downstream;

(3) Thence in a northwesterly direction with a line that is 1000 feet north of and parallel to the south shoreline of Nueces Bay and the right low-water line of the Nueces River going downstream to its intersection with the right low-water line of the Nueces River going upstream;

(4) Thence upstream in a generally westerly direction with the right low-water line of the Nueces River go-

ing upstream to its intersection with a line that runs N 38° W from the point of beginning;

(5) Thence S. 38° E across the Nueces River to the place of beginning.

Those areas which lie between Tract Number One and Tract Number Two and which are not included within the boundary of either of said tracts are specifically excluded and do not lie within the proposed City Limits. Tracts Numbers One and Two are contiguous at those points where the descriptions indicate coincidence of boundaries.

SECTION 2. That the official ballot for said election shall be, except for caption and date, and other formalities as may be provided by law for the form of said ballot, as hereinafter set out, and the proposition to be voted on at said election shall be as follows:

"PROPOSITION No. 1

Shall the City of Corpus Christi, by ordinance of the City Council, annex to the City of Corpus Christi certain additional territory referred to and described in the ordinance ordering an election," as being all the territory between the present city limits and the new city limits set forth therein and wholly within the new city limits; and fixing the boundaries of the City, all as set out in said ordinance on its final passage, which ordinance was passed by the City Council on first reading on the 18th day of July, 1962, said territory being specifically described in said ordinance and shown on a map, which map is on file in the office of the City Secretary of the City of Corpus Christi at the City Hall?"

All voters who favor the annexation of the territory as herein described and as generally provided in Proposition No. 1 shall have written or printed on their ballots the following words:

"PROPOSITION No. 1

For annexation of such additional territory referred to in the ordinance heretofore passed on final reading by the City Council, ordering an election, and which ordinance was passed on first reading on July 18, 1962."

and those opposed to the annexation of the territory hereinbefore described in Section 1 hereof and referred to and as generally provided in Proposition No. 1 shall have written or printed on their ballots the following words:

"PROPOSITION No. 1

Against the annexation of such additional territory referred to in the ordinance heretofore passed on final reading by the City Council, ordering an election, and which ordinance was passed on first reading on July 18, 1962."

SECTION 3. If at said election a majority of the duly qualified voters who reside within the City of Corpus Christi voting at said election shall vote in favor of the annexation to the City of Corpus Christi of the territory herein described in Section 1 hereof and referred to herein, and as generally provided in Proposition No. 1, the City Council shall, by ordinance, annex and receive such territory as a part of said City, and thereafter such territory so annexed and received shall be a part of the City of Corpus Christi, Texas.

SECTION 4. A copy of this ordinance, signed by the Mayor of the City of Corpus Christi, Texas, shall constitute the notice ordering such election, and the Mayor is directed to cause a copy of this ordinance, signed by him, to be posted at the City Hall in the City of Corpus Christi, Nueces County, Texas, and at each of the polling places in each precinct of the City, said posting to be not

less than fifteen (15) days prior to said election, and to have a copy of this ordinance published in the Corpus Christi Times, the official newspaper of the City of Corpus Christi, Texas, it being a newspaper of general circulation, published within the City of Corpus Christi, said publication to be made in accordance with the requirements of law.

SECTION 5. Said election shall be held in the City of Corpus Christi, Texas, at the following places and the following named persons are hereby named judges and officials at said election:

LIST OF VOTING PRECINCTS, POLLING PLACES, ELECTION JUDGES AND ASSISTANTS:

(THE LIST OF POLLING PLACES AND ELECTION JUDGES OMITTED.)

That the foregoing ordinance was read for the first time and passed to its second reading on this the 18 day of July, 1962, by the following vote:

Ben F. McDonald	Absent
Tom R. Swantner	Aye
Dr. James L. Barnard	Aye
Jose R. DeLeon	Aye
M. P. Maldonado	Aye
W. J. Roberts	Aye
James H. Young	Aye

That the foregoing ordinance was read for the second time and passed to its third reading on this the 25th day of July, 1962, by the following vote:

Ben F. McDonald	Aye
Tom R. Swantner	Absent
Dr. James L. Barnard	Aye

Jose R. DeLeon	Aye
M. P. Maldonado	Aye
W. J. Roberts	Aye
James H. Young	Aye

That the foregoing ordinance was read for the third time and passed finally on this the 1st day of Aug., 1962, by the following vote:

Ben F. McDonald	Aye
Tom R. Swantner	Absent
Dr. James L. Barnard	Aye
Jose R. DeLeon	Aye
M. P. Maldonado	Aye
W. J. Roberts	Aye
James H. Young	Aye

PASSED AND APPROVED, This the 1st day of Aug., 1962.

ATTEST:

/s/ T. Ray Kring
City Secretary

APPROVED AS TO LEGAL FORM THIS
18th DAY OF July, 1962:

/s/ James P. Ryan, Ass't.
City Attorney

/s/ Ben F. McDonald
MAYOR
THE CITY OF CORPUS
CHRISTI, TEXAS

CERTIFICATE

THE STATE OF TEXAS)
COUNTY OF NUECES)

I, the undersigned, City Secretary of the City of Corpus Christi, Texas, do certify that the foregoing is a true and

correct copy of Ordinance No. 6586, passed and approved by the City Council during the Regular Council Meeting held on the 1st day of August, 1962, as same appears in the official records of the City of Corpus Christi, Texas, of which records I am the lawful custodian.

WITNESSETH My Hand and the Official Seal of the City of Corpus Christi, Texas, this 9th day of August, A.D., 1962.

/s/ T. Ray Kring
T. RAY KRING
City Secretary
City of Corpus Christi, Texas

(SEAL)

AN ORDINANCE No. 6636

By the City Council of the City of Corpus Christi, Texas, Receiving into and Annexing to the City of Corpus Christi, Certain Additional Territory, and Fixing New Boundaries for the City of Corpus Christi, Fully Describing Said Territory and Said New Boundaries, and Declaring Said New Territory an Integral Part of the City of Corpus Christi, and Declaring the Said New Territory As Annexed to and Made a Part of the City of Corpus Christi, Texas, Subject to the General Laws of the State of Texas, the City Charter of the Said City and the Ordinances, Resolutions and Laws of the City of Corpus Christi and Entitled to All the Same Rights, Privileges and Burdens Thereof; and Declaring an Emergency.

WHEREAS, on the 18th day of July, 1962, there was presented to the city council of the City of Corpus Christi, Texas, an ordinance ordering an election to be held in the City of Corpus Christi for the purpose of determining

whether or not certain territory adjacent to the City of Corpus Christi should be annexed to the City, which ordinance was duly passed on first reading on said 18th day of July, 1962, and duly passed on second reading on July 25, 1962, and duly passed on third and final reading on August 1, 1962, all of which dates were Regular Meetings of the said City Council; and

WHEREAS, an election was held on 15th day of September, 1962, in accordance with the provisions of said ordinance and in accordance with the ordinances and Charter of the City of Corpus Christi and in accordance with the statutes of the State of Texas regarding such elections, and the question of such annexation of such additional territory was submitted to the qualified voters of the City by the submission of the following proposition:

"PROPOSITION No. 1

Shall the City of Corpus Christi, by ordinance of the City Council, annex to the City of Corpus Christi certain additional territory referred to and described in the ordinance ordering an election, as being all the territory between the present city limits and the new city limits set forth therein and wholly within the new city limits; and fixing the boundaries of the City, all as set out in said ordinance on its final passage, which ordinance was passed by the City Council on first reading on the 18th day of July, 1962, said territory being specifically described in said ordinance and shown on a map, which map is on file in the office of the City Secretary of the City of Corpus Christi at the City Hall?"

which said area to be annexed so fully described in the ordinance passed on first reading on July 18, 1962, and passed on third and final reading August 1, 1962, and returns of such election were duly made to this Council; and

WHEREAS, on the 19th day of September, 1962, at a Regular Meeting of the City Council of the City of Corpus Christi came on the matter of canvassing returns of said election and at said meeting, it was found and determined that a majority of the legally qualified voters voted in favor of annexation to the City of Corpus Christi of the said territory, and the City Council thereupon declared the results of said election to be that a majority of the legally qualified voters of the City of Corpus Christi voting at said election voted in favor of annexation to the City of Corpus Christi of all of the territory between the City limits of the City as it existed prior to said election and the City limits as described and set forth in said Ordinance No. 6586, passed on final reading on the 1st day of August, 1962, ordering said election and as hereinafter described; and

WHEREAS, in order to comply with Section 2 of Article 1 of the Charter of the City of Corpus Christi, Texas, as amended, it is necessary after the election has been held and the vote is favorable for annexation, that the City Council shall by ordinance annex the area so voted upon; and

WHEREAS, the City Council deems it to the best interests of the City of Corpus Christi that said territory as hereinafter described and which the voters of the City by a majority vote declared should be annexed to the City of Corpus Christi, Texas, be annexed to and received into and included within the territorial limits of said City to become an integral part thereof, and subject to the rules, regulations, ordinances, resolutions and the Charter of said City as well as becoming charged with the burdens of other persons and property within said City and that the boundary limits of the City be fixed as hereinafter described, including said area:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

SECTION 1. That all of the area lying between the boundary line of the City of Corpus Christi, Texas, as it existed prior to this date and the new boundary as proposed to be fixed by said Ordinance passed on first reading on July 18, 1962, and which new boundary is more particularly described as follows:

TRACT NUMBER ONE

(1) Beginning at the southeast corner of the U. S. Naval Air Station property, Corpus Christi, Texas, said point being on the west shoreline of Laguna Madre; thence in a southwesterly direction along the west shoreline of Laguna Madre, which generally follows a southerly direction to a point where it intersects the fill area of the Padre Island Causeway;

(2) Thence continuing along the north line of the fill area to the Humble Channel;

(3) Thence along the west bank of the Humble Channel to the south line of the fill area;

(4) Thence in a westerly direction along the south line of the fill area to the west shoreline of Laguna Madre;

(5) Thence in a southerly direction with the west shoreline of Laguna Madre to the south boundary line of Section 52 of the Flour Bluff and Encinal Farm and Garden Tracts;

(6) Thence in a westerly direction with the south boundary line of Sections 52, 51 and 38 to its intersection with the east shoreline of Cayo Del Oso;

(7) Thence in a northerly direction with the meanders of the east shoreline of Cayo Del Oso to its intersection with the southeasterly extension of the northeast boundary line of Saratoga Road;

(8) Thence in a northwesterly direction with the southeasterly extension of the northeast boundary line of Saratoga Road crossing Cayo Del Oso and continuing in a northwesterly direction with the northeast boundary line of Saratoga Road and its northwesterly extension, continuing upon a straight line across all road intersections crossed, to its intersection with the east right of way line of State F.M. Road No. 763;

(9) Thence in a westerly direction crossing F.M. Road No. 763 at right angles thereto to a point in the west right of way line of F.M. Road No. 763;

(10) Thence in a northwesterly direction on a direct line to a point in the south right of way line of State Highway No. 44, said point being in the southerly extension of the west right of way line of Rand Morgan Road;

(11) Thence in a northerly direction with the southerly extension of the west right of way line of Rand Morgan Road crossing State Highway No. 44 and continuing with the west right of way line of Rand Morgan Road to its intersection with the southwest right of way line of a 40-foot wide water line easement conveyed to the City of Corpus Christi by deed dated 9 April 1954 and recorded in Vol. 634 Page 244 Deed Records of Nueces County, Texas, being approximately 645 feet north of the north right of way line of the Texas Mexican Railway right of way;

(12) Thence in a northwesterly direction with the southwest right of way line of said water line easement and other 40-foot easements for the same water line

across other tracts contiguous to the above described easement, to an angle point;

(13) Thence continuing along and with the southwest right of way line of an easement conveyed to the City of Corpus Christi by instrument dated 16 March 1954 of record in Vol. 634 Page 287, Deed Records of Nueces County, Texas, to another angle point at Violet Road (F.M. 24);

(14) Thence continuing along and with the southwest right of way line of easements conveyed to the City of Corpus Christi, Texas, by instrument dated 18 March 1954 of record in Vol. 634 Page 291, Deed Records of Nueces County, Texas, and instrument dated 7 April 1954 of record in Vol. 634 Page 294, Deed Records of Nueces County, Texas, to a point in the northeast boundary line of a 100 acre tract of land now or formerly in the name of Ruth Merritt and Arthur Merritt;

(15) Thence N 53° W with the northeast boundary line of said 100 acre tract and the southwest boundary line of a 108.5 acre tract and continuing along the southwest boundary line of the Harney Partition and the southwest boundary line of a 161.15 acre tract now or formerly in the name of M. W. Hearn et al to a point in the southeast right of way line of F. M. Road No. 1694;

(16) Thence continuing along this same line crossing F. M. Road No. 1694 and continuing along the southwest boundary line of Central Power and Light Company 105.76 acre tract to the southwest corner thereof, said point being in the east right of way line of the St. Louis, Brownsville and Mexico Railroad (also called Missouri Pacific Railroad) right of way;

(17) Thence continuing along this same line crossing the St. Louis, Brownsville and Mexico Railroad right

of way and continuing along the southwest boundary line of a 135.68 acre tract of land now or formerly in the name of P. M. Rushing and the northeast boundary line of a 294 acre tract now or formerly in the name of Kitty Wolfe Gentry to its intersection with the east right of way line of State Highway No. 77;

(18) Thence in a westerly direction crossing State Highway No. 77 at right angles thereto to a point in the west right of way line of State Highway No. 77;

(19) Thence in a northerly direction with the west right of way line of State Highway No. 77 as widened, crossing F. M. Road 624 and continuing along the west right of way of U. S. Highway No. 77 to its intersection with the west right of way line of Calallen Drive;

(20) Thence in a northerly direction along the west right of way line of Calallen Drive to a point on a line that is 50 feet southwest of and parallel to the southwest boundary line of River Forest Subdivision;

(21) Thence in a northerly direction with a line that is 50 feet southwest of and parallel to the southwest boundary line of River Forest Subdivision to a point in the southeast boundary line of a 7.07 acre tract of land conveyed to the City of Corpus Christi;

(22) Thence in a southwesterly direction with the southeast boundary line of said City of Corpus Christi Tract to the most southerly corner thereof;

(23) Thence in a northwesterly direction with the southwest boundary line of said City of Corpus Christi Tract to a point on the south side of the Nueces River, being a point on the low-water line of the right side of the river going downstream;

(24) Thence downstream with the meanders of the low-water line on the right side of the Nueces River going downstream to its intersection with the west right of way line of State Highway No. 9 near the Nueces River Bridge;

(25) Thence in a southerly direction with the west right of way line of State Highway No. 9 to its intersection with the westerly extension of the north boundary line of Lot 17 of the Calallen Irrigation Gardens Subdivision;

(26) Thence crossing State Highway No. 9 in an easterly direction with the westerly extension of the north boundary line of said Lot 17 of the Calallen Irrigation Gardens Subdivision to its intersection with the east right of way line of the Missouri Pacific Railroad right of way;

(27) Thence in a southerly direction with the east right of way line of the Missouri Pacific Railroad right of way and the southwest boundary line of Sharpsburg Road to their point of divergence;

(28) Thence in a southeasterly direction with the southwest right of way line of Sharpsburg Road to its intersection with the westerly extension of the north boundary line of an 8.88 acre tract of land now or formerly in the name of H. D. Countiss;

(29) Thence in an easterly direction with the westerly extension of said 8.88 acre tract crossing Sharpsburg Road and continuing with the north boundary line of said 8.88 acre tract and the northwest boundary line of a 67.826 acre tract owned by the City of Corpus Christi, Texas, to its intersection with the right-side low-water line of the Nueces River going downstream;

(30) Thence in an easterly direction with the meanders of the right-side low-water line of the Nueces River going downstream to its intersection at a dredged boat slip,

with a property line which bears approximately S 4° 45' E, which line when extended southerly intersects the centerline of Up River Road (Shell Road) a distance of 120 feet more or less northwest of the centerline of Sandy Ridge Road;

(31) Thence in a southerly direction with said property line to a point in the north right of way line of Up River Road (Shell Road);

(32) Thence in a southeasterly direction with the north right of way line of Up River Road (Shell Road) to its intersection with the north right of way line of proposed Interstate Highway No. 37 as established by the Texas Highway Department following the Public Hearing of March 22, 1961;

(33) Thence in an easterly direction with the north right of way line of the proposed Interstate Highway No. 37 and with the flares of its intersections and interchanges, to those points at which normal right of way width is reached on connecting roads on the north side thereof, to the intersection of said north right of way line with the southeast boundary line of the Katie, Alice and Helen Dunn 110.8 acre tract, said point of intersection lying on the present City Limits Line;

(34) Thence in a northeasterly direction with the southeast boundary line of the Katie, Alice and Helen Dunn 110.8 acre tract and the southeast boundary line of the Mary Dunn Meany 30 acre tract and crossing Up River Road (Shell Road) to a point in the north boundary line of said road;

(35) Thence in a southeasterly direction with the northeast right of way line of Up River Road (Shell Road) to its intersection with the east boundary line of an 87.71

acre tract of land now or formerly in the name of Corpus Christi Golf and Country Club;

(36) Thence in a northerly direction with the east boundary line of said 87.71 acre tract to the southwest corner of a 5.37 acre tract now or formerly in the name of Alvin Herberick;

(37) Thence in an easterly direction with the south boundary line of said 5.37 acre tract to a point in the west right of way line of Cantwell Lane;

(38) Thence in a southerly direction with the west right of way line of Cantwell Lane to its intersection with the north right of way line of Up River Road (Shell Road);

(39) Thence in an easterly direction with the north right of way line of Up River Road (Shell Road) to its intersection with the north right of way line of the proposed Interstate Highway No. 37;

(40) Thence in an easterly direction with the north right of way line of the proposed Interstate Highway No. 37 to its intersection with the northwest boundary line of Country Club Place Subdivision;

(41) Thence in a northeasterly direction with the northwest boundary line of the Country Club Place Subdivision to the north corner thereof;

(42) Thence in a southeasterly direction with the northeast boundary line of Country Club Place Subdivision to the east corner thereof, the same being the southwest boundary line of Poth Lane;

(43) Thence in a northeasterly direction with the northwest boundary line of Poth Lane to its intersection with the northwesterly extension of the northeast boundary line of Harbor View Estates Subdivision;

(44) Thence in a southeasterly direction with the northwesterly extension of the northeast boundary line of Harbor View Estates Subdivision and the northeast boundary line thereof to the northwest boundary line of an 8.3 acre tract of land now or formerly in the name of Pontiac Refining Company;

(45) Thence in a southwesterly direction with the northwest boundary line of the said 8.3 acre tract to a point in the northeast boundary line of Block 2, Oak Lawn Subdivision;

(46) Thence in a southeasterly direction with the northeast boundary line of Oak Lawn Subdivision and its southeasterly extension to a point in the west boundary line of Baymoor Subdivision;

(47) Thence in a northerly direction with the west boundary line of Baymoor Subdivision to the northwest corner thereof;

(48) Thence in a southeasterly direction with the northeast boundary line of said Baymoor Subdivision and the southeasterly extension thereof to a point in the east right of way line of Nueces Bay Boulevard;

(49) Thence in a northeasterly direction with the southeast right of way line of Nueces Bay Boulevard to its intersection with the original City Limits line as surveyed by C.F.H. von Blucher in August 1883, said intersection being near the intersection of Nueces Bay Boulevard and Nueces Street;

(50) Thence in a northerly direction with the original City Limits line as surveyed by C.F.H. von Blucher in August, 1883, to the north corner of said original City Limits line;

(51) Thence in an easterly direction with the original City Limits line as surveyed by C.F.H. von Blucher in August 1883, to its intersection with the southwesterly extension of the centerline of Avenue "F" in Brooklyn Addition;

(52) Thence in a northwesterly direction with the southwesterly extension of the centerline of Avenue "F" and with the centerline of Avenue "F" to its intersection with the south shoreline of Nueces Bay;

(53) Thence in a westerly direction with the meanders of the south shoreline of Nueces Bay to its intersection with the south boundary line of State Survey No. 708 or its easterly extension;

(54) Thence in a westerly direction with the easterly extension of and with the south boundary of State Survey No. 708 to a point on the south boundary line of State Survey No. 708 which is 2000 feet west of the southeast corner thereof;

(55) Thence N 25° E to a point on a line that is 1500 feet north of and parallel to the south boundary line of State Survey Nos. 708, 723, 706 and 746;

(56) Thence in a westerly direction with a line 1500 feet north of and parallel to the south boundary line of State Surveys Nos. 708, 723, 706 and 746 to a point 1900 feet east of the west boundary line of State Survey No. 746;

(57) Thence in a southerly direction with a line that is 1900 feet east of and parallel to the west boundary line of State Survey No. 746 to a point in the south boundary line of said State Survey No. 746;

(58) Thence in a westerly direction with the south boundary line of State Survey No. 746, at 1900 feet pass-

ing the southwest corner thereof, and with the south boundary lines of State Surveys Nos. 750, 689 and 691 to the southwest corner of said Survey No. 691;

(59) Thence in a northerly direction with the west boundary line of State Survey No. 691 and its northerly extension to a point in the south line of State Survey No. 686;

(60) Thence in an easterly direction with the south line of State Survey No. 686 to the southeast corner thereof;

(61) Thence in a northerly direction with the east line of State Survey No. 686 and the northerly extension thereof to a point on the north shoreline of Nueces Bay;

(62) Thence in an easterly direction with the meanders of the north shoreline of Nueces Bay to a point in the east line of State Survey No. 751;

(63) Thence in a southerly direction with the east lines of State Surveys Nos. 751 and 753 to a point on the shoreline of Nueces Bay;

(64) Thence in a southerly and easterly direction with the shoreline of Nueces Bay and Corpus Christi Bay to a point in the northeast boundary line of State Survey No. 41;

(65) Thence in a southeasterly direction with the northeast boundary of State Survey No. 41 to its most easterly corner;

(66) Thence in a northeasterly direction on a direct line to the east corner of State Survey No. 12;

(67) Thence in a northwesterly direction with the northeast boundary line of State Survey No. 12 to a point on the shoreline of Corpus Christi Bay;

(68) Thence in an easterly direction with the north shoreline of Corpus Christi Bay to its intersection with the northeast line of State Survey No. 417;

(69) Thence in a southeasterly direction with the northeast line of State Survey No. 417 to its east corner;

(70) Thence in a southwesterly direction with the southeast boundary line of State Surveys or Mineral Leases Nos. 417, 420, 447, 450, 475, 33, 50, 51, 66, 67 and 78 to its intersection with the south shoreline of Corpus Christi Bay;

(71) Thence in an easterly direction with the meanders of the south shoreline of Corpus Christi Bay to its intersection with a line that is 10 feet west of and parallel to the west abutment of a bridge constructed by Nueces County in 1962, being the bridge across the main branch of Oso Creek between Cayo Del Oso and Corpus Christi Bay;

(72) Thence in a southerly direction with a line that is parallel to and 10 feet west of the west abutment of said bridge to a point 100 feet south of the centerline of said bridge;

(73) Thence in an easterly direction parallel to and 100 feet south of said centerline to a point on the east shoreline of Cayo Del Oso;

(74) Thence in a southerly and southeasterly direction with the meanders of the east shoreline of Cayo Del Oso to a point on the west boundary of Lot 13, Section 42, Flour Bluff and Encinal Farm and Garden Tracts, said point also being the shoreline corner of the U. S. Naval Air Station property;

(75) Thence in a northerly direction with the west boundary of said Lot 13, Section 42, Flour Bluff and

Encinal Farm and Garden Tracts to the northwest corner thereof;

(76) Thence in an easterly direction with the north boundary line of Lots 13, 14 and 15, Section 42 and Lot 17, Section 47, Flour Bluff and Encinal Farm and Garden Tracts, being also a boundary of the U. S. Naval Air Station property, to the northeast corner of said Lot 17, Section 47;

(77) Thence in a northerly direction with the west boundary line of Lot 15, Section 47, Flour Bluff and Encinal Farm and Garden Tracts, being also a boundary of the U. S. Naval Air Station, to the northwest corner of said Lot 15;

(78) Thence in an easterly direction with the north boundary line of Lots 15, 14, 13 and 12, Section 47, Flour Bluff and Encinal Farm and Garden Tracts, being also a boundary of the U. S. Naval Air Station, to a point, said point being a common corner of Lots 12, 11 and 6, Section 47, Flour Bluff and Encinal Farm and Garden Tracts;

(79) Thence in a northerly direction with the western boundary of said Lot 6, Section 47, Flour Bluff and Encinal Farm and Garden Tracts, being also a boundary of the U. S. Naval Air Station, to the northwest corner of said Lot 6;

(80) Thence in an easterly direction with the north boundary line of Lots 6, 7 and 8, Section 47, and Lots 1 and 2, Section 56, Flour Bluff and Encinal Farm and Garden Tracts, being also a boundary of the U. S. Naval Air Station, to a point, said point being a common corner of Lots 2 and 3, Section 56, and Lot 18, Section 57, Flour Bluff and Encinal Farm and Garden Tracts;

(81) Thence in a northerly direction with the west boundary line of Lot 18, Section 57, Flour Bluff and Encinal

Farm and Garden Tracts, being also a boundary line of the U. S. Naval Air Station, to the northwest corner of said Lot 18;

(82) Thence in an easterly direction with the north boundary line of Lots 18, 17, 16 and 15, Section 57, Flour Bluff and Encinal Farm and Garden Tracts to the place of beginning on the west shoreline of Laguna Madre;

In addition, Tract Number Two as described below is included in the proposed City Limits:

TRACT NUMBER TWO

(1) Beginning at a point on the low-water line of the right side of Nueces River going downstream, said point being on the southwest boundary line of a 7.07 acre tract conveyed to the City of Corpus Christi, and being the same point reached by Call Number 23 in the description of Tract Number One above, thence downstream with the meanders of the low-water line on the right side of the Nueces River going downstream, passing those points reached by Calls Numbers 24, 29 and 30 in the description of Tract Number One above, to the intersection of the right-side low-water line of the Nueces River and with the south shoreline of Nueces Bay to their intersection with the west line of State Mineral Lease No. 691, being at a point in the present City Limits line and on the same line described in Call Number 59 in the description of Tract Number One above;

(2) Thence in a northerly direction with the west line of said State Mineral Lease No. 691 to its intersection with a line that is 1000 feet northeast of and parallel to the south shoreline of Nueces Bay and the right low-water line of the Nueces River going downstream;

(3) Thence in a northwesterly direction with a line that is 1000 feet north of and parallel to the south shoreline of Nueces Bay and the right low-water line of the Nueces River going downstream to its intersection with the right low-water line of the Nueces River going upstream;

(4) Thence upstream in a generally westerly direction with the right low-water line of the Nueces River going upstream to its intersection with a line that runs N 38° W from the point of beginning;

(5) Thence S. 38° E across the Nueces River to the place of beginning.

Those areas which lie between Tract Number One and Tract Number Two and which are not included within the boundary of either of said tracts are specifically excluded and do not lie within the proposed City Limits. Tracts Numbers One and Two are contiguous at those points where the descriptions indicate coincidence of boundaries.

and all of which area is hereby annexed to the City of Corpus Christi, Texas, and received into said City and included within the territory and limits of said City as an integral part thereof and the City limits boundary established as hereinabove set forth, including all of said area so hereby annexed, it is hereby ordained that said territory shall hereafter be a part of the City of Corpus Christi, Texas, subject to the general laws of the State of Texas applicable thereto as a part of the City of Corpus Christi, the City Charter of the City of Corpus Christi and the ordinances, resolutions and laws of the City of Corpus Christi, Texas, to all intents and purposes as was and is all of the area within the limits of the City of Corpus Christi, Texas, prior to said annexation election and subject to all the same rights, privileges and burdens thereof.

SECTION 2. The fact that such election has been held and the votes counted and canvassed and the results of the election declared in favor of annexation of such territory to said City, and it is important to the residents of such territory that annexation of such territory be immediately completed, creates a public emergency and an imperative public necessity requiring the suspension of the Charter rule that no ordinance or resolution shall be passed finally on the date it is introduced and that such ordinance or resolution shall be read at three several meetings of the City Council, and the Mayor having declared such emergency and necessity to exist, having requested that such Charter rule be suspended, and that this ordinance be passed finally on the date of its introduction, and take effect and be in full force and effect from and after its passage, IT IS ACCORDINGLY SO ORDAINED this the 19th day of September, 1962.

/s/ Ben F. McDonald
MAYOR
THE CITY OF CORPUS CHRISTI, TEXAS

ATTEST:

/s/ T. Ray Kring
City Secretary

APPROVED AS TO LEGAL FORM THIS THE 18TH DAY OF SEPTEMBER, 1962:

/s/ I. M. Singer
City Attorney

Corpus Christi, Texas
19 day of Sept., 1962.

TO THE MEMBERS OF THE CITY COUNCIL
Corpus Christi, Texas

For the reasons set forth in the emergency clause of the foregoing ordinance, a public emergency and imperative necessity exist for the suspension of the Charter rule or requirement that no ordinance or resolution shall be passed finally on the date it is introduced, and that such ordinance or resolution shall be read at three meetings of the City Council; I, therefore, hereby request that you suspend said Charter rule or requirement and pass this ordinance finally on the date it is introduced, or at the present meeting of the City Council.

Respectfully,

/s/ Ben F. McDonald
MAYOR
THE CITY OF CORPUS
CHRISTI, TEXAS

The Charter rule was suspended by the following vote:

Ben F. McDonald	Aye
Tom R. Swantner	Aye
Dr. James L. Barnard	Absent
Jose R. DeLeon	Aye
M. P. Maldonado	Aye
W. J. Roberts	Aye
James H. Young	Aye

The above ordinance was passed by the following vote:

Ben F. McDonald	Aye
Tom R. Swantner	Aye
Dr. James L. Barnard	Absent

Jose R. DeLeon	Aye
M. P. Maldonado	Aye
W. J. Roberts	Aye
James H. Young	Aye

CERTIFICATE

THE STATE OF TEXAS)
COUNTY OF NUECES)

I, the undersigned, City Secretary of the City of Corpus Christi, Texas, do certify that the foregoing is a true and correct copy of Ordinance No. 6636, passed and approved by the City Council during the Regular Meeting held on the 19th day of September, 1962, as same appears in the official records of the City of Corpus Christi, Texas, of which records I am the lawful custodian.

WITNESSETH My Hand and the Official Seal of the City of Corpus Christi, Texas, this 9th day of May, A.D., 1963.

/s/ T. Ray Kring
T. RAY KRING
City Secretary
City of Corpus Christi, Texas

IN THE SUPREME COURT OF TEXAS

In Chambers

September 9, 1963.

It is ordered that the following nineteen (19) cases now on the docket of the Court of Civil Appeals for the Fourth Supreme Judicial District, at San Antonio, be, and hereby are, transferred to the Court of Civil Appeals for the Thirteenth Supreme Judicial District, at Corpus Christi, to-wit:

* * * (Other cases listed) * * *

No. 142-1, W. L. D. Winship et al. vs. City of Corpus Christi, appealed from the 117th District Court of Nueces County.

* * * (Other cases listed) * * *

And the Court of Civil Appeals for the Fourth Supreme Judicial District will make the necessary orders for the transfer of said cases as hereby directed and will cause the Clerk of that Court to transmit the original transcript and all filed papers in each case, together with copies of all orders made, to the Court of Civil Appeals for the Thirteenth Supreme Judicial District, to which Court said cases are hereby transferred.

I, GEO. H. TEMPLIN, Clerk of the Supreme Court of Texas, do hereby certify that the above and the foregoing one page contain a true and correct copy of the order entered by the Supreme Court of Texas on September 9, 1963, transferring nineteen (19) cases from the Court of Civil Appeals for the Fourth Supreme Judicial District of Texas to the Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas, as such order appears of record in the minutes of said Court.

IN TESTIMONY WHEREOF, witness my hand and the seal of the Supreme Court of Texas, at the City of Austin, this, the 9th day of September, A.D. 1963.

GEO. H. TEMPLIN
Clerk

By (Signed) Carl B. Lyda
Deputy

IN THE FOURTH COURT OF CIVIL APPEALS

BE IT REMEMBERED, That at a regular term of the Court of Civil Appeals in and for the Fourth Supreme Judicial District of Texas, begun and holden at San Antonio, on the 1 day of October, A.D. 1962, and on the 9 day of September, 1963, a day of said term, the following order was made in Cause No. 14217.

W. L. D. Winship et al.,
Appellants,
No. 14217 vs.
City of Corpus Christi,
Appellee.
} From Nueces County.

It is ordered that this cause be transferred to the Court of Civil Appeals for the Thirteenth Supreme Judicial District at Corpus Christi, Texas, and that the Clerk of this Court certify all orders made and costs accrued in this Court, and transmit all the papers in this cause to the Clerk of said Thirteenth District.

FORMER ORDERS

(None)

I, ROBERT L. COOK, Clerk of the Court of Civil Appeals of the Fourth Supreme Judicial District of Texas, do hereby certify that the foregoing is a true copy of the orders made by this Court in the above entitled and numbered cause.

Given under my hand and seal of office, at San Antonio, Texas, this 10th day of September, A.D. 1963.

(Signed) Robert L. Cook
Clerk.

• • •

Corpus Christi, Texas
August 14, 1964

I, MARGARET M. BLACKMON, Clerk of the Court of Civil Appeals in and for the Thirteenth Supreme Judicial District of Texas, do hereby certify that the foregoing is a true and correct copy of the Order of the Supreme Court and of the Order of the Fourth Court of Civil Appeals in San Antonio, as entered in the minutes on the 11th day of September, 1963, in Cause No. 15, W. L. D. Winship, et al., Appellants, v. City of Corpus Christi, Appellee, on appeal to this Court from the 117th District Court of Nueces County, Texas.

WITNESS MY HAND and the Seal of said Court at Corpus Christi, Texas, this 14th day of August, 1964.

/s/ Margaret M. Blackmon
Clerk.

(Seal)

JUDGMENT OF THE COURT OF CIVIL APPEALS

Thursday, December 19, 1963

W. L. D. Winship, et al., Appellants,

No. 15

(Tr. Ct. #79100-B) v.

City of Corpus Christi, Appellee

On appeal from the 117th District Court of Nueces County. Opinion by Associate Justice T. Gilbert Sharpe.

THIS CAUSE came on to be considered, having been submitted on oral argument and upon the record and written brief, and the same being fully examined and considered, it is the opinion of the Court that there was no error in the action of the trial court in granting a motion for summary judgment in favor of Appellee and in refusing to grant the similar motion of Appellants.

IT IS THEREFORE CONSIDERED, adjudged and ordered that the judgment of the trial court be AFFIRMED.

IT IS FURTHER ORDERED that appellants W. L. D. Winship, et al., pay all costs herein incurred and said decision be certified below for observance.

Corpus Christi, Texas
August 14, 1964

I, MARGARET M. BLACKMON, Clerk of the Court of Civil Appeals in and for the Thirteenth Supreme Judicial District of Texas, do hereby certify that the foregoing is a true and correct copy of the Judgment of this Court, as entered in the minutes on the 19th day of December, 1963, in Cause No. 15, W. L. D. Winship, et al., Appellants, v. City of Corpus Christi, Appellee, on appeal to this Court from the 117th District Court of Nueces County, Texas.

WITNESS MY HAND and the Seal of said Court at Corpus Christi, Texas, this the 14th day of August, 1964.

/s/ Margaret M. Blackmon
(Seal) Clerk.

ORDER OF THE COURT OVERRULING APPELLANTS' MOTION FOR REHEARING

Thursday, January 9, 1964

W. L. D. Winship, et al., Appellants,

No. 15

(Tr. Ct. #79100-B) v.

City of Corpus Christi, Appellee

On appeal from the 117th District Court of Nueces County.
Opinion by Associate Justice T. Gilbert Sharpe.

THIS DAY came on to be submitted to the Court Motion No. 55, Motion for Rehearing by W. L. D. Winship, et al., appellants in this cause.

THE COURT, having fully considered the motion, is of the opinion that same should be denied.

IT IS THEREFORE ordered that the motion for rehearing by W. L. D. Winship, et al., appellants herein, be OVERRULED.

Corpus Christi, Texas
August 14, 1964

I, MARGARET M. BLACKMON, Clerk of the Court of Civil Appeals in and for the Thirteenth Supreme Judicial District of Texas, do hereby certify that the foregoing is a true and correct copy of the Order Overruling Appellants' Motion for Rehearing, as entered in the minutes on the 9th day of January, 1964, in Cause No. 15, W. L. D. Winship, et al., Appellants, v. City of Corpus Christi, Appellee, on appeal to this Court from the 117th District Court of Nueces County, Texas.

WITNESS MY HAND and the Seal of said Court at Corpus Christi, Texas, this 14th day of August, 1964.

/s/ Margaret M. Blackmon
Clerk

(Seal)

IN THE SUPREME COURT OF TEXAS

No. A-10,005. April 22, 1964

W. L. D. Winship et al.
vs.
City of Corpus Christi, Texas } From Nueces County, Thirteenth District.

Application of petitioners for writ of error to the Court of Civil Appeals for the Thirteenth Supreme Ju-

dicial District, as well as motion of respondent to dismiss said application for want of jurisdiction, having been duly considered, it is ordered that the motion to dismiss application for want of jurisdiction be, and hereby is, overruled.

And the Court having determined that the application for writ of error presents no error requiring reversal of the judgment of the Court of Civil Appeals, it is ordered that same be, and hereby is, refused.

It is further ordered that applicants, W. L. D. Winship et al., pay all costs incurred on this application.

No. A-10,005. May 20, 1964

W. L. D. Winship et al.
vs.
City of Corpus Christi, Texas
} From Nueces County, Thirteenth District.

Petitioners' motion for rehearing of application for writ of error having been duly considered, it is ordered that said motion be, and hereby is, overruled.

I, GEO. H. TEMPLIN, Clerk of the Supreme Court of Texas, do hereby certify that the above and foregoing is a true and correct copy of the orders of the Supreme Court of Texas in the case numbered and styled as above, as the same appears of record in the minutes of said Court under the dates shown.

WITNESS my hand and the seal of the Supreme Court of Texas, at the City of Austin, this, the 11th day of August, 1964.

GEO. H. TEMPLIN, Clerk
By /s/ Eugene Cervenka,
Deputy.

No. 15

IN THE COURT OF CIVIL APPEALS
FOR THE THIRTEENTH SUPREME JUDICIAL DISTRICT OF TEXAS SITTING AT CORPUS CHRISTI, TEXAS

W. L. D. WINSHIP ET AL.,
APPELLANTS

VS.

CITY OF CORPUS CHRISTI, TEXAS,
APPELLEE

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

I.

Notice is hereby given that W. L. D. WINSHIP, NAT S. QUALIA, C. A. STANLEY, JOHN L. DRURY, ROBERT H. FRANTZ, IRA VAN LOH, NUECES COUNTY FRESH WATER SUPPLY DISTRICT NO. 1, NUECES COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 2, SANTOS DE LA PAZ, BEN GARELA, Z. C. RODRIGUZ, SANTIAGO VARGAS, SARAH M. MORZON, JESUS VARELA, ERNESTO GUTEREZ, BEN ALENAN, OLIVIS BARRERA, JULIAN SANCHEZ, EVA B. GURINCIO, JOSE URIOS, JESUS UVALLI, ANTONIO R. GONZALEZ, MRS. FRANCISCO MARTINEZ, ARTURO GUTUNEZ, GEORGE ARRIAGA, G. G. GARZA, TOMMIE MOONEY, OSCAR STUZINIK, MARTHA ANN STUZINIK, J. V. GABRIEL, MRS. J. V. GABRIEL, CAROLINE A. STURGIS, RUSSEL G. STURGIS, LE ROY MANNGEN, and AMELIA MANNGEN, the appellants above named, hereby appeal to the Supreme Court of the United States from the final judgment of the Court of

Civil Appeals for the Thirteenth Supreme Judicial District of Texas sitting at Corpus Christi, Texas, affirming the judgment of the District Court of Nueces County, Texas, 117th Judicial District, entered in this suit on the 9th day of January, 1964, which judgment became final on the 20th day of May, 1964, the date the Supreme Court of Texas overruled Appellants' motion for rehearing on Appellants' petition for writ of error to the Supreme Court of Texas.

This appeal is taken pursuant to Title 28 U.S., Code Annotated, Section 1257 (2).

II.

The Clerk will please prepare a transcript of the record in this cause for transmission to the Clerk of the Supreme Court of the United States and include in said transcript the following original instruments:

A. Original transcript of the record filed in the Court of Civil Appeals for the Fourth Supreme Judicial District of Texas, sitting at San Antonio, Texas, as number 14217, on July 15, 1963, and filed as cause number 15 in the Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas, sitting at Corpus Christi, Texas, on transfer by order of the Supreme Court of Texas;

B. The photostatic copy of House Bill No. 269, Texas Legislature;

C. One copy of Appellants' Brief filed August 13, 1963;

D. One copy of Appellee's Brief filed September 9, 1963;

E. One copy of Appellants' Supplemental Brief filed October 14, 1963;

F. Certified copy of Order of Supreme Court of Texas transferring case from Court of Civil Appeals for the Fourth Supreme Judicial District of Texas to Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas;

G. Certified copy of Order of Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas granting leave to file supplemental transcript;

H. Supplemental transcript filed October 24, 1963;

I. Certified copy Judgment of the Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas affirming trial court judgment, December 19, 1963;

J. Certified copy Opinion of Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas, December 19, 1963;

K. One copy Appellants' Motion For Rehearing filed January 3, 1964, Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas;

L. Certified copy Order of Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas overruling Motion For Rehearing, January 9, 1964;

M. One copy this Notice of Appeal showing date of filing in Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas.

III.

The following questions are presented by this appeal:

1. The annexations to the City of Corpus Christi, Texas, of 1961 and 1962, violate Section 1, Fourteenth

Amendment of the Constitution of the United States because the Charter Provisions, Article I, Section 2, Annexation, providing for annexation of territory to said City, and by virtue of which such annexations were attempted, makes no provision for notice to and hearing of the inhabitant or non-inhabitant property owning taxpayers, business operating persons, resident citizens, including these Appellants, within the territory sought to be annexed, or to be affected by the annexation, prior to the alleged annexation or of the calling of the election for annexation;

2. The annexation ordinances involved in this suit violate the Constitution of the United States, Fourteenth Amendment, Section 1, because no notice of any kind was given to these Appellants, or any other person, by the City Council or any other body, nor hearing was had before the Corpus Christi City Council, or any other board or investigating body for the City, prior to the calling of the annexation election, on the matter of the annexation, and there is no provision for an appeal from the action of the Council on annexation;

3. The Constitution and laws of the State of Texas provide the method of annexation of territory to the said City when a portion of a Water Improvement District or a Water Supply District, having an outstanding indebtedness, or property to be used, is included within the territory to be annexed. When each attempted annexation, that of 1961 and of 1962, was made there was included within the territory a portion of NUECES COUNTY WATER IMPROVEMENT DISTRICT NO. 2, on which there was, and is, an outstanding bonded indebtedness of more than FIVE HUNDRED THOUSAND AND NO/100 ($500,000.00) DOLLARS, and property necessary to be purchased by the City, and there was in-

cluded within the territory in 1962, a portion of NUECES COUNTY FRESH WATER SUPPLY DISTRICT NO. 1, having property necessary for the City to purchase in order to properly operate the water system therein; nevertheless, the CITY OF CORPUS CHRISTI, TEXAS, failed and refused to follow the laws for such annexation and did thereby not afford these Appellants the due process of law guaranteed to them by the Fourteenth Amendment to the Constitution of the United States, Section 1;

4. In the attempted annexations of territory in 1961 and 1962, the City Council of the CITY OF CORPUS CHRISTI, TEXAS, annexed territory surrounding and completely inclosing other territory which had inhabitants, property owners, business operations, and others, situated the same and having the same kind of property and businesses as those within the annexed area, but, said CITY did in all annexation ordinances calling the elections and annexing the territory, specially exclude as not annexed such surrounded and incompassed area, and did, by so doing, violate the Fourteenth Amendment to the Constitution of the United States, Section 1, by not affording these Appellants and others similarly situated equal protection of the law, by discriminating in favor of said excluded persons and property.

SIDNEY P. CHANDLER

Attorney for W. L. D. WINSHIP, ET AL., Appellants

P. O. Box 6216
Corpus Christi, Texas

PROOF OF SERVICE

I, Sidney P. Chandler, attorney of record for W. L. D. Winship, et al., the Appellants named in the foregoing Notice, depose and say:

That, on the 10th day of August, 1964, I served a copy of the foregoing Notice of Appeal to the Supreme Court of the United States on the CITY OF CORPUS CHRISTI, TEXAS, Appellee herein, by delivering the same to a receptionist in the office of I. M. Singer, Esq., City Attorney for the CITY OF CORPUS CHRISTI, TEXAS, counsel of record for the CITY OF CORPUS CHRISTI, TEXAS, located at the City Attorney's office, City Hall, Corpus Christi, Texas.

SIDNEY P. CHANDLER

SUBSCRIBED AND SWORN TO BEFORE ME, at Corpus Christi, Texas, this the 10th day of August, 1964.

(S) W. R. CANARY

Notary Public, Nueces County, Texas.

The Clerk of this, The Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas, may permit the Appellants to withdraw the original instruments listed in the foregoing Notice of Appeals to the Supreme Court of the United States for use by each of them in their appeal to that Court.

Witness my hand this the 12th day of August, 1964.

(S) HOWARD P. GREEN

Chief Justice of the Court of Civil Appeals for the Thirteenth Supreme Judicial District of Texas.

Office-Supreme Court, U.S.
FILED
NOV 4 1964
JOHN F. DAVIS, CLERK

No. 563

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1964

W. L. D. WINSHIP ET AL.,
Appellants,

vs.

CITY OF CORPUS CHRISTI, TEXAS,
Appellee.

ON APPEAL FROM THE COURT OF CIVIL APPEALS FOR THE THIRTEENTH SUPREME JUDICIAL DISTRICT OF TEXAS, SITTING AT CORPUS CHRISTI, TEXAS.

APPELLEE'S MOTION TO DISMISS AND BRIEF IN SUPPORT THEREOF

I. M. SINGER
City Attorney
City of Corpus Christi
City Hall
Corpus Christi, Texas
Attorney for Appellee

ROBERT E. YOUNG
Corpus Christi, Texas
Of Counsel

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No. .....

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1964

W. L. D. WINSHIP ET AL.,
Appellants,

vs.

CITY OF CORPUS CHRISTI, TEXAS,
Appellee.

ON APPEAL FROM THE COURT OF CIVIL APPEALS FOR THE THIRTEENTH SUPREME JUDICIAL DISTRICT OF TEXAS, SITTING AT CORPUS CHRISTI, TEXAS.

APPELLEE'S MOTION TO DISMISS

NOW COMES City of Corpus Christi, Texas, a municipal corporation, Appellee, and pursuant to Rule 16 of the Rules of this Court, moves to dismiss the appeal in the above styled and numbered case on the following grounds:

(a) Because this appeal, not having been taken in conformity with Section 1257 (2), Title 28, U.S.C.A., the same is not within the jurisdiction of this Court.

(b) Because this appeal, not having been taken in conformity with Rule 15(d) of this Court, the same is not within the jurisdiction of this Court.

(c) Because the questions now being urged before this Court were not timely raised below.

(d) Because the questions now being urged before this Court were not properly raised below.

(e) Because this case does not present a substantial federal question.

(f) Because the Judgment in this case rests on an adequate non-Federal basis.

WHEREFORE, PREMISES CONSIDERED, Appellee prays that this appeal be in all things dismissed and that Appellee be awarded their costs, and for such other and further relief as is proper.

I. M. Singer

I. M. SINGER
City Attorney
City of Corpus Christi
City Hall
Corpus Christi, Texas
Attorney for Appellee

No. .....

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1964

W. L. D. WINSHIP ET AL.,
Appellants,

VS.

CITY OF CORPUS CHRISTI, TEXAS,
Appellee.

ON APPEAL FROM THE COURT OF CIVIL APPEALS FOR THE THIRTEENTH SUPREME JUDICIAL DISTRICT OF TEXAS, SITTING AT CORPUS CHRSTI, TEXAS.

BRIEF IN SUPPORT OF ATTACHED, PRECEDING MOTION OF APPELLEE TO DISMISS

NOW COMES City of Corpus Christi, Texas, a municipal corporation, Appellee, and submits this Brief, pursuant to Rules 16, 35 and 39 of this Court, in support of the attached, preceding Motion to Dismiss.

STATEMENT OF THE CASE

Appellants are not quite accurate in their statement. The statement that Article 1182a, V.A.T.S., "was the law controlling the annexation of territory to the City of Corpus Christi" is a mere allegation on the part of appellants and the Texas Courts have not agreed with such allegation. Though Appellants alleged that "the City will need to acquire" water systems of the respective water districts, there are no allegations that the City must acquire or operate such water systems. The City government is an entirely different function than the utility business and there was no greater compulsion to acquire either water system than there was or is to acquire an independent gas system or independently owned electric system.

The City of Corpus Christi, Texas, is a home rule city whose Charter reserves to the qualified voters the right to decide upon all major annexations.

> "Such question of annexation of any given territory may be submitted to the qualified voters of the City at any time upon the majority vote of the members of the Council. The question of annexation of any given territory may come before the Council for consideration upon either (1) the will of the Council, or (2) the written recommendation of the Zoning and Planning Commission of the City, or (3) petition signed by not less than 1,500 qualified voters of the City, or (4) petition signed by not less than 10% of the qualified voters residing in the territory proposed to be annexed." (City Charter Article 1, Section 2(a)).

The Texas Constitution, in Article XI, Section 5* (the so-called Home Rule Amendment), confers on cities of over 5,000 inhabitants the power to adopt or amend their charters subject to such limitation as may be prescribed by the Texas Legislature. Article 1175-2* of the Revised Civil Statutes of Texas, recognizes the power of such cities to provide in their charters the rules for annexing additional territory lying adjacent to such cities.

The annexations in question were decided by the qualified voters of the Appellee City after an election was called by the City Council. The majority of such voters having voted in favor of annexation, the City Council of Appellee City followed the mandatory provisions of its Charter (Section 2(a), Article 1 of City Charter), by passing ordinances annexing such territory to the Appellee City (Ordinance No. 6242, Juris. Stmt., pp. A-24 through A-31, and Ordinance No. 6636, Juris. Stmt., pp. A-50 through A-69).

The annexation of 1961 was the subject of the appeal to the Supreme Court of the United States and the appeal denied, *Pennington et al.* v. *City of Corpus Christi et al.*, 363 S.W.2d 502 (Civ. App. writ ref., n.r.e.), ... U.S. ....., ... S. Ct. ....., 11 L. Ed. 2d 471. That was the only water district involved which had any indebtedness and therefore the only district with indebtedness which the City could assume. Therefore, the 1962 election did not involve any water district having any outstanding bonded indebtedness and Article 1182a could not possibly apply. The clearness possessed by Appellants (Juris. Stmt., p. 10) that "the City of Corpus Christi had no authority by law or Charter provision to annex", is not

*See Appendix, herein numbered page A1.

found to exist by the Court (A-5 and authorities listed there).

Appellants are including certain matters not in the Transcript and those are specifically discussed at page 7, page 10 and page 14 hereof. Appellees are compelled to deny those specific assertions on page 26 of Appellants' Jurisdictional Statement. Not in the record but in reply to Appellants' Statement, on page 26, Appellee states the facts to be as follows: Two elections have been held since the opinion was rendered by the Texas Court of Civil Appeals in this case. The Nueces County Water Control and Improvement District No. 2 (Flour Bluff Water District) voted in favor of merging the water district with the City and the property taxpaying voters in the City voted in favor of assuming the water district indebtedness and taking over the property and operation of the district facilities. This taking over of the District by Appellee renders moot the question of Article 1182a, V.A.T.S. The other water district (Nueces County Fresh Water Supply District No. 1) is still in control of all its property, still purchasing treated water from the City and still operating all of its facilities and distributing water to all of its customers just as before the election.

1. **Appellants Have Failed to Comply with Section 1257 (2) of Title 28, U.S.C.A., or with Rule 15(d) of This Court and Have Neither Timely nor Properly Raised Any Constitutional Questions in the Courts Below.** (Germane to Grounds for Dismissal A, B, C and D).

Appellants attempt to raise four questions:

(1) Lack of authority of the City to annex a part of a water district where Charter is silent as to water district but does contain general provisions as to annexation.

(2) Annexation of a part of the area covered by a water district automatically takes the property of the water district and therefore takes property without compensation in violation of the U. S. Constitution.

(3) Annexation by vote of the City annexing and not including a vote of the voters in the area annexed is violation of due process clause. Assumes that voting on annexation by the voters in the annexed area is a fundamental right (p. 19).

(4) The exclusion from annexation of certain territory is a benefit to that territory and therefore unlawful discrimination in placing burdens on the area annexed.

Questions (1), (2) and (3) are grouped as one question as presented by Appellants.

The principal reasons urged for Appellants were all presented to the trial and appellate Courts of Texas and rejected by said Courts. The proceedings in the Supreme Court of Texas are not mentioned in request for transcript of Appellants contained in Appellants' "Notice of Appeal to the Supreme Court of the United States", and Appellee does not waive such omission. The Court of Civil Appeals does not by statute have final jurisdiction in this action and Appellants have not shown by the transcript that the questions presented have been raised in the State Court of final jurisdiction. Whether or not the copies of the Application for Writ of Error to the Supreme Court of Texas and to which Appellants refer on pages 2 and 11 of Appellants' Jurisdictional Statement are correct is not known by Appellee as said proceedings are not in the transcript and no copy of said copy of Application for Writ of Error or Motion for Rehearing have been furnished to Appellee.

Article 1182a Does Not Apply.

Appellants make allegations at random regarding the fact that in the two annexation proceedings, parts of the area covered by each of two water districts distributing water to household consumers was annexed. The districts are really public utility water distribution systems who purchase treated water from the City of Corpus Christi and distribute it through a pipe system owned by the respective district. Appellants erroneously have concluded that simply by annexing part of the area served by each of said districts the City automatically takes over the respective water distribution systems. Of course, such is not an automatic result of annexation any more than if the districts were private corporations, such as gas distribution systems, electricity supply systems or telephone service systems. Appellants have urged on the Trial Court that Article 1182a, V.A.T.S. (Juris. Stmt., pp. A-9 to A-12) must apply; whereas, by its own terms, said Article only applies where the City *intends* to merge the facilities of the water distribution system with the City system *and assume the bonded indebtedness* of the district *by a vote of property taxpaying voters at the same time as the annexation question* is submitted. The City of Corpus Christi did not intend such a merger of systems and assumption of debt and so did not submit the annexation question to taxpaying voters. Therefore, Article 1182a, V.A.T.S., had no application to the annexation proceedings and the plain, simple procedure set forth in the City Charter was followed. Since no assumption of indebtedness was under consideration at the time of the annexation election, there was no statutory or constitutional requirement to limit the voters to those who were property taxpayers. The State Courts have, therefore, held that there was a full compliance with the terms of the City

Charter and no need to comply with the special terms of Article 1182a, V.A.T.S. Article 1182a is not a grant of power to the City, as Appellants argue (Juris. Stmt. p. 25), but is a limitation, under certain circumstances, on the general power which home rule cities have to fix their own boundaries. There is therefore no lack of power in the home rule city to annex a portion of a water district. Then, since the State Courts have held that the limitation on procedure of annexation which is set out in Article 1182a, V.A.T.S., does not apply in this instance, there is no lack of due process. Water districts may include part of a city even at time of organization. *City of Pelley* v. *Harris County Water Control & Imp. Dist. No. 7*, 145 Tex. 443, 198 S.W.2d 784. Appellants fail to comment on Article 1182c-1, V.A.T.S., cited by the Texas Court of Civil Appeals (p. A-5) which fully covers situations of annexation by a city of a portion of an existing water district. The case of *Jefferson County Water Control and Improvement District No. 5* v. *City of Port Arthur*, 160 Tex. 136, 327 S.W.2d 415 (1959), is cited in the opinion of the Court of Civil Appeals and that case expressly holds that there is no automatic taking over of the property or operations of a water district upon annexation of a part thereof by a city. Such holding dispels the erroneous assumption made by Appellants as a premise upon which to base this appeal. (Juris. Stmt. p. 26)

Appellants Fail to State a Case under Section 1257(2) of Title 28, U.S.C.A., or with Rule 15(d) of the Supreme Court.

As stated at the outset, this case is really an attempt to avoid the effect of two annexation ordinances which were adopted by the City after following the provisions of its Charter by holding election at which elections the

qualified voters of the City favored annexation. The 1961 election has already been litigated by appeal to the Supreme Court and appeal dismissed, *Pennington et al.* v. *City of Corpus Christi et al.*, 363 S.W.2d 502 (Civ. App., writ ref., n.r.e.), ... U.S. ....., ... S. Ct. ....., 11 L. Ed. 2d 471. The premise to the argument urged by Appellants as to why the 1962 annexation was unconstitutional is shown by the pleading of Appellants to be faulty. There is no allegation that the City *must* take over either water district and no allegation that the only water district affected by the 1962 election (District No. 1) had any indebtedness which the City could assume. There is therefore no question of constitutionality of any statute, law or ordinance. There is merely an attempt to show noncompliance with State Statutes which have no application.

The Questions Attempted to Be Raised by Appellants Are Not Shown by the Record to Be Timely or Properly Raised.

The Court of Civil Appeals in this case had great difficulty in determining what points Appellants were urging and only after indulging in careful examination of the statements and arguments could any semblance of legal point be separated from the many general statements and legal conclusions of Appellants (Appellants' Juris. Stmt. p. A-2). That Court then concluded there was no merit in the points. The Transcript does not contain the Application for Writ of Error to the Supreme Court nor the Motion for Rehearing after denial of such Application though the order overruling both Application and Motion do appear in the Appendix to the Appellants' Jurisdictional Statement (pp. A. 74-75). The Appellants therefore cannot comply with the terms of Rule 15d by giving specific reference to the place in the record where the constitutional questions, if any, appear.

II. Appellants Raise No Constitutional Questions.

(Germane to Ground for Dismissal E).

The only questions presented by Appellants concern (1) failure of the City to follow, in annexing certain areas, procedures urged by Appellants as being mandatory, and (2) failure to annex more territory than was covered by the annexation procedures. As to the procedures applicable, the Opinion of the Court of Civil Appeals finds that the procedures followed were proper and adequate and that no constitutional violation existed. As to the question of omission to annex other territory, it is apparent that Appellants base their complaint on the false assumption that exclusion of an area is a benefit to the owners. See *Kelly* v. *Pittsburgh*, 104 U.S. 658, *Hunter* v. *Pittsburgh*, 207 U.S. 161, *Pan American* v. *Texas City*, 157 Tex. 450, appeal dismissed 355 U.S. 603 (1958), where the courts hold as a matter of law that inclusion of any area within an incorporated city is a benefit to that area.

III. Judgment in This Case Rests on an Adequate Non-Federal Basis. (Germane to Ground for Dismissal F).

This is not in reality a suit raising a question of constitutional law. The questions raised are all collateral attacks, only, upon annexation proceedings and the incidental results to these particular persons and/or their property. The only tax questions involved are alleged errors in administration of the tax laws and not attacks upon the laws as such. The tax law administration questions could all be remedied, if established, by actions in the State Courts and are not matters over which the Federal Courts have any jurisdiction. *Norton* v. *Cass County*, 5th Cir., 115 F.2d 884, and *Orange, Texas*, v. *Levingston Shipbuilding Co.*, 5th Cir. (1958), 258 F.2d 240, 28 U.S.C.A. 1341. The annexation

questions are not sufficient to invoke the attention of the Court unless the action of the City was wholly without any authority. The State Courts have fully, finally and completely adjudicated the validity of the annexation proceedings and held the annexations valid. This is not a direct attack by quo warranto proceedings as was the *Pan American* v. *Texas City* case (303 S.W.2d 780). Even in that case the annexation was held valid in an action where much more serious allegations were made attacking validity than are made in this case. The Appellants do not negative any right to remedy in the State Courts from alleged tax inequities. They merely allege their own conclusions of imagined injustices. There is no denial of the power of the City to enlarge its boundaries. There is only the complaint as to the motives of the Council and the failure to annex additional area. These were not sufficient grounds to make a collateral attack on the annexation proceedings. These recognize the power in the City to annex. The effect of the exercise of that power is the only thing about which complaint is made. This is not a constitutional question. As far back as 1881 the Supreme Court of the United States said,

> "What portion of a State shall be within the limits of a city and governed by its authorities and its laws has always been considered to be a proper subject of legislation." *Kelly* v. *Pittsburgh*, 104 U.S. 658 at 659.

This rule has continued to be followed. *Hunter* v. *Pittsburgh*, 207 U.S. 161 and *State ex rel. Pan American* v. *Texas City*, 157 Tex. 450, appeal dismissed 355 U.S. 603 (1958); 62 C.J.S. p. 122.

If this Court is going to concern itself with the same problem that the State Courts have been concerned with, we shall consider the angle from which the Appellants seek to raise constitutional questions out of the incident of

exercise of a power exclusively vested in the State, to-wit, annexation. There is no question raised as to the existence of the power of annexation being in this home rule city. The only question is as to whether or not the City acted within the procedure provided by its Charter and by the State Law. This is a collateral attack. This is not a matter for concern of any courts in any action other than a Quo Warranto proceeding. If the annexation proceedings were void then, and only then, could the collateral attack be urged. These annexation proceedings of 1961 and 1962 have not only been apparently valid, but the courts of the State (in six instances) have declared them valid. They cannot, therefore, be void. Being valid annexations according to State-approved procedure, there is a sound non-Federal basis for the judgment.

In all of the rambling of Appellants herein, they fail to even allude to the case of *Pennington et al.* v. *City of Corpus Christi et al.*, 363 S.W.2d 502 (Civ. App. writ. ref., n.r.e.), U.S. ....., ... S. Ct. ....., 11 L. Ed. 2d 471. The annexation of 1961 has been upheld by the State courts and the U. S. Supreme Court. Appellants are precluded from attacking said annexation in that all points litigated or that could have been litigated in that case are now *res judicata*. That was a class action for the benefit of that segment of the public residing in and/or owning property in the area annexed in 1961 and all of said residents and property owners are bound thereby, 34 Tex. Jur. 2d p. 475, *Palestine* v. *Houston*, (Civ. App.) 262 S.W. 215, error dismissed, contrary to Appellants' statement on page 26 that the "Water Districts remain active in the non-annexed areas thereof", there have been two elections in 1964 concerning the Nueces County District No. 2: an election by the qualified taxpaying voters of the City of Corpus Christi and an election by the voters of the water district. Both

elections carried in favor of the City's taking over the assets and liabilities of the district. A contract has been entered into and the District is now operated by Appellee City.

We submit that Appellants herein have intentionally not informed this Honorable Court of the *Pennington* case nor of the elections of this year. The elections render moot the water district problem posed by Appellants. The *Pennington* decision is *res judicata* on those points anyway.

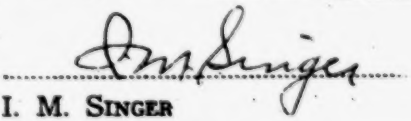
The Appellants' statement on page 26 that the Nueces County District No. 2 is still active is an outright fabrication, well known to Appellants. Appellants were active in an attempt to defeat the said elections of the City and the District. The Appellant Mr. Winship even has written letters to and published in the newspapers urging defeat of the proposals. Thus the fear that the Appellants say they have as to taking the property of the districts by the city cannot really exist. District No. 1 is still operating as it was before annexation. District No. 2 has after election both in the district and in the city merged with the city and the city under contract with the district operates all the facilities of the district, all as set out on page 6 hereof.

The Appellees further charge that neither of the water districts were really concerned with the effects of annexation which appellants have so extensively litigated. Said districts, were, at the instance of Appellees, made parties to this proceeding but have taken no active part. The group of citizens represented by the same attorney who represented the Appellants *Pennington et al.* in that proceeding have attempted to postpone taxation and other incidents of annexations personal to them by extensive

and extended litigation. They have been frustrated and are legally barred by the adverse judgment in the *Pennington* case but seek to keep one or more actions collaterally attacking the annexation proceedings pending in some Court to delay the day as long as possible when the people annexing and the people annexed can work together on local municipal problems. The fact that a third case involving said annexations has been filed in the Federal District Court and is on appeal at this time under the guidance of the same attorney as this case and having W. L. D. Winship as surety on the appeal bond is further evidence of intent to litigate the annexations as long as possible. A dismissal of this frivolous appeal is urged by Appellees to end this branch of the annexation litigation.

PREMISES CONSIDERED, for each of the grounds for dismissal hereinabove set forth, it is respectfully submitted that the appeal should be dismissed.

Respectfully submitted,



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City of Corpus Christi
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Corpus Christi, Texas
Of Counsel

SERVICE OF PROCESS

I, I. M. SINGER, a member of the Bar of the Supreme Court of the United States, representing the Appellee herein, do hereby certify that this Motion to dismiss has been served upon Appellants by depositing copies thereof in the United States mail in Corpus Christi, Texas, with first-class postage prepaid, counsel of record for Appellants, this 3 day of November, 1964.

I. M. Singer

I. M. SINGER

APPENDIX

APPENDIX

Article 1175, Section 2, Vernon's Annotated Texas Statutes: Enumerated Powers.

Cities adopting the charter or amendment hereunder shall have full power of local self-government, and among the other powers that may be exercised by any such city the following are hereby enumerated for greater certainty:

2. The power to fix the boundary limits of said city, to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said city, to provide for the disannexation of territory within such city and to provide for the exchange of territory with other cities or towns, according to such rules as may be provided by said charter not inconsistent with the procedural rules prescribed by the Municipal Annexation Act.

Article XI, Section 5, Texas Constitution.

Sec. 5. Cities having more than five thousand (5000) inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters, subject to such limitations as may be prescribed by the Legislature, and providing that no charter or any ordinance passed under said charter shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State; said cities may levy, assess and collect such taxes as may be authorized by law or by their charters; but no tax for any purpose shall ever be lawful for any one year, which shall exceed two and one-half

per cent of the taxable property of such city, and no debt shall ever be created by any city, unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and creating a sinking fund of at least two per cent thereon; and provided further, that no city charter shall be altered, amended or repealed oftener than every two years.